

Report for Congress

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Foreign Affairs, Defense, and Trade: Key Issues for the 108th Congress

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Foreign Affairs, Defense, and Trade: Key Issues for the 108th Congress

Summary

The 108th Congress will be faced early on with a number of pressing foreign affairs, defense, and trade issues. This report provides background information on the issues most likely to be taken up in the first session, analyzes the congressional role in shaping U.S. policy on these key issues, and lists CRS products that provide more detailed discussion and analysis.

The terrorist attacks on the World Trade Center and the Pentagon dramatically altered the U.S. political environment, pushing issues of war and homeland security to the top of the policy agenda. Of particular concern to Congress will be the progress of the ongoing war on terrorism, a possible war with Iraq, the unfolding crisis with North Korea, and dealing with the proliferation of weapons of mass destruction (WMD) and missiles. Each of these topics receives particular attention in this report.

This report also describes foreign policy tools that the 108th Congress will consider in dealing with a wide range of foreign policy challenges affecting U.S. interests around the globe. It discusses major foreign economic and security assistance programs which Congress may consider funding, including the Millennium Challenge Account, global HIV/AIDS programs, humanitarian aid to Afghanistan, counter-terrorism activities in Southeast Asia and Africa, and possible reconstruction and humanitarian assistance in Iraq. It examines how U.S. relations with NATO and policies toward countries such as Iraq, Iran, North Korea, China, Russia, and Pakistan may affect U.S. counter-terrorism and non-proliferation efforts. Other issues covered include potential global flash points – such as the Israel-Palestinian conflict, China-Taiwan relations, and the Balkans – and U.S. concerns in Latin America, such as drug trafficking.

A number of defense issues are likely to receive considerable attention in the 108th Congress, including managing defense related costs within budgetary constraints, guiding Department of Defense (DOD) “transformation” initiatives, setting priorities on major weapons systems, and assessing whether the military is the proper size to meet the demands of current or anticipated missions. Other defense issues covered include whether to allow “concurrent receipt” of military retired pay and Veterans’ Administration disability benefits, the appropriate role of DOD in homeland security, and oversight of reforms in defense management and business operations.

Congressional consideration of U.S. bilateral free trade agreements (FTAs) with Chile and Singapore, and other trade issues are discussed in this report as well. The 108th Congress will likely monitor U.S. negotiations on FTAs with Morocco, Central America, the South Africa Customs Union, Australia, and countries of the Association of Southeast Asian Nations (ASEAN). Its agenda may include legislation related to WTO compliance issues and the re-authorization of the Export Administration Act, the Free Trade Agreement of the Americas (FTAA) and the Doha Development Agenda. This report will be updated as appropriate.

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Foreign Affairs, Defense, and Trade: Key Issues for the 108th Congress

U.S. Foreign, Security, and Trade Policy in a New Era

Francis T. Miko, Specialist in International Relations (7-7670)
Robert L. Goldich, Specialist in National Defense (7-7633)

In 2003, the 108th Congress is expected to face early challenges in foreign, defense and trade policy. As the global campaign against terrorism continues and a possible war with Iraq looms, Congress must complete action on the FY2003 appropriations bills and begin consideration of the budget for FY2004. Congressional actions are likely to reflect the reality that the September 11, 2001, terrorist attacks on the United States (hereafter referred to as 9/11) have, in some fundamental ways, changed America and the way it looks at the world. For many, 9/11 destroyed the illusion that the United States is invulnerable to attack from a determined enemy. The Administration and Congress are shifting U.S. policy and resources accordingly.

The new priorities appear to include the following: **First**, in order to diminish U.S. vulnerabilities to attack that were exposed by 9/11, a whole new structure for “homeland security” is being built. **Second**, the United States and a coalition of countries are continuing a worldwide campaign to destroy Al Qaeda and other terrorist organizations that target U.S. citizens and facilities. While the initial phase of removing the Taliban government and destroying Al Qaeda bases in Afghanistan was successful, the effort to defeat the terrorists is by no means finished. The intelligence community believes that Al Qaeda is regrouping in Pakistan and elsewhere. Many key leaders have not been captured or killed and the organization is believed to be capable of mounting new threats. **Third**, the United States is intensifying its efforts to remove what the Administration and many in Congress consider the related threat of weapons of mass destruction (WMD) in the hands of “rogue” governments. The concern is that they might be tempted to use such weapons against the United States and its allies or to supply them to terrorist organizations. The U.S. showdown with Iraq is the main focus at present, but President Bush has identified North Korea and Iran, as well as Iraq, as forming an “axis of evil.” In October, 2002, North Korean leaders admitted that they have an ongoing nuclear weapons program in violation of international agreements. Since then, they appear to be reactivating nuclear installations shut down under a 1994 agreement and have expelled International Atomic Energy Agency inspectors, threatening a full-scale international crisis.

While the world rallied in support of U.S. actions after 9/11, the Administration and Congress must also contend with the fact that many countries are becoming

increasingly wary and even alarmed about how unconstrained U.S. military power might be used and the direction of U.S. policy. Some concern has been present ever since the United States became the sole superpower in a less predictable world, in contrast to the U.S.-Soviet balance of power which existed for half a century. However, worries seem to have been heightened by the perceived U.S. shift of focus from the war against Al Qaeda to Iraq and the “axis of evil” and by the U.S. assertion of a doctrine of preemption.

Other countries still seek and welcome U.S. leadership on global issues, but they increasingly complain that the United States is deciding and acting on its own and pursuing narrow self-interests. They see the Administration as consulting partners only after decisions are made, when their assistance is needed, and without taking their views into account. Such complaints are even voiced by close U.S. allies in Europe and Asia who wonder whether the U.S. is downgrading long-standing alliances as it pursues short-term “coalitions of the willing.” International grievances about U.S. unilateralism include a litany of complaints about specific U.S. policies, such as its opposition to the International Criminal Court, rejection of environmental agreements like the Kyoto Protocol, and its withdrawal from the Anti-Ballistic Missile Treaty. Some urge the Administration to seriously address allied differences on these issues; others see U.S. positions as correct and view some of the protestations as hypocritical and self-centered.

Congress faces other new issues and challenges that are in some ways related. As it deliberates and votes on accepting seven new members into NATO, the 108th Congress may reexamine the role that U.S. alliances play in the new circumstances. There is concern among some observers that if U.S.-allied differences continue to mount, they could begin to erode the foundations of relations. Since the end of the Cold War, there are fewer clear and present dangers that absolutely necessitate formal alliances. Increasingly, voices can be heard in the United States, Europe, Japan, South Korea, and elsewhere that question the need for them. Some in other countries are beginning to see close association with U.S. policy as making them more vulnerable to terrorist or WMD threats. On the U.S. side, some go-it-alone advocates see allies primarily as an impediment to U.S. freedom of action, while not contributing much to U.S. strength, especially given that the gap in their military capabilities and spending has continued to widen. At present these seem to be minority views. Others would probably still argue that U.S. policy should continue to define U.S. interests in terms of broader shared allied interests. There is concern that the current U.S. preponderance, if not used in a multilateral way, might be difficult to sustain and could even hasten the emergence of competing power centers or coalitions. Many would argue that strong alliances are still among the greatest U.S. assets and sources of long-term U.S. political, economic, and military strength.

Congress faces issues concerning continuing U.S. assistance and engagement in Afghanistan, Bosnia, Kosovo, and other recent conflict areas and may also need to prepare for a possible long-term and costly military presence in Iraq. This again raises for Congress the controversial question of “nation-building” and the appropriate U.S. role in post-conflict peacekeeping and reconstruction efforts. Many argue for leaving such efforts principally to other countries. At present, the United States is drawing down its forces in the Balkans. However, some experts argue that

it would not serve U.S. interests or the prospects for stability in these countries, if the U.S. were to withdraw completely.

Congress will likely review U.S. foreign aid priorities after 9/11 and take up the President's large new foreign aid initiative, the Millennium Challenge Account, which would substantially increase foreign assistance to developing countries with a record of good performance in key areas. The initiative may derive at least in part out of recognition that poverty makes countries breeding grounds for terrorism and other ills, such as the spread of HIV/AIDS and other infectious diseases. It is believed to be a root cause of strife and instability in many parts of the world.

At the same time, other challenges remain on the congressional agenda. These include oversight of U.S. foreign policy toward regions and countries of the world, including rising powers such as China and major countries undergoing significant transition such as Russia. Congress is likely to continue to focus considerable attention and resources to fighting HIV/AIDS and other communicable diseases, especially in Africa and Asia. Transnational problems such as international crime, drugs, environmental problems, and human rights concerns remain important congressional concerns.

The global economy has profoundly changed international relations and the ability of governments to control developments even within national borders. International developments impact on the domestic policy as never before. The benefits of globalization are considered far reaching, spurring world productivity, economic growth, and access to information. Along with the benefits come significant new challenges that may require further congressional attention. Globalization brings economic dislocations in some areas. Financial uncertainties threaten different regions. In the trade area, the 108th Congress will likely face decisions on approving one or more free trade agreements and monitoring the negotiations on others which the Bush Administration has initiated or proposed. The negotiations include bilateral, regional, and multilateral trade liberalizing agreements.

Many believe that strong U.S. leadership in a multilateral framework will be necessary to find cooperative solutions to world problems. Others remain suspicious of international organizations and reluctant to enter into agreements that they believe would cede a degree of U.S. sovereignty to them.

The 108th Congress will confront underlying ambiguity, controversy, and uncertainty regarding the proper directions and priorities for U.S. defense policy when it opens in early 2003—a huge change from the degree of underlying consensus which marked the opening of the 107th Congress in early 2001. Before the attacks of 9/11, U.S. strategic priorities and military contingency planning were centered almost exclusively around preparation for possible hostilities with threatening nation-states. Since 9/11, the Department of Defense (DOD) has been waging a war of episodic intensity against active terrorist and terrorist-related forces throughout the world; since early 2002, it has been preparing for a war against Iraq, if diplomatic efforts fail to eliminate any weapons of mass destruction it may possess.

At the same time, Secretary of Defense Rumsfeld has been vigorously propounding the underlying assumptions of the technology-driven “Revolution in

Military Affairs (RMA)," and, accordingly, emphasizing lightness, mobility, technological sophistication, and hardware over firepower, sustainability, size of the force, and quantity of weapons and units. He has done this over varying degrees of doubt and opposition from within and without the military services and their senior uniformed leadership, the Congress, and nongovernmental commentators and analysts on defense issues.

The Administration appears to have decided to fight a major war with Iraq if necessary; continue the RMA-driven modernization of the armed forces; and maintain the existing level of effort in the war against terrorism centered in and around Afghanistan—without greatly enlarging the size of the active duty armed forces. The Administration appears to have tacitly decided, so far, to prosecute the current anti-terrorism operations, and possibly the imminent ones against Iraq, within the constraints of existing active and reserve military force structure, weapons and equipment inventory, and personnel strengths. It is not clear how long this level of military effort can be sustained without requiring a substantially larger active duty force, and much greater levels of procurement spending, so as to avoid gross unreadiness in those forces not actually deployed to parts of the world where hostilities are taking place.

In the background are issues of defense strategy and resource allocation which the terrorism war and related matters have temporarily crowded off of literal and virtual front pages. It was going to be difficult enough to finance what the Administration regarded as minimally necessary increases in peacetime defense spending out of then predicted budget surpluses. When hostilities cease, or greatly diminish in intensity, how will crucial modernization and readiness programs be funded now that deficits are back? Are national missile defense (NMD) systems technically feasible, and, if so, are they important enough to command a major part of a constrained defense budget at the expense of conventional weapons research and development and procurement? How should the United States size its conventional forces in an era where the previous benchmarks of "2 ½ wars," "1 ½ wars," "two nearly-simultaneous major theater wars [MTWs]," and/or "winning one MTW and holding in another" all appear to be sterile remnants of the pre-9/11 era?

Finally, the Administration's stated willingness to "exercise our right of self-defense by acting preemptively" against terrorism, and against either transnational terrorists or nation-states that appear to be preparing to attack the United States with WMD, may have military as well as political implications. Are U.S. military forces, which are almost 40% smaller than they were at the height of the Cold War in the late 1980s, capable of executing a strategy which could demand more long-range power projection capability, intelligence collection and evaluation assets, and special operations forces than the present force structure? In short, the 108th Congress will be confronting defense issues in an atmosphere of uncertainty that has not existed since the collapse of the Soviet Union and the Warsaw Pact a dozen years ago.

The War On Terrorism

International Terrorism

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The events of September 11, 2001, underscored the significance of international terrorism as a first-order threat to U.S. national security and to U.S. interests at home and abroad. Since September 11, important steps have been taken by Congress and by the Bush Administration to confront that threat. Inevitably, however, questions of costs and priorities arise in the conduct of U.S. counterterrorism policy and Congress will be called upon to address these issues both in the budgetary process and in specific legislation.

A fundamental and vital issue concerns the allocation of resources between the homeland security and national security aspects of policy: it may be asked, for example, how much emphasis should be placed on forward defense – striking at Al Qaeda and its affiliates in distant lands, shutting down foreign sanctuaries and training camps, cutting terrorists' financial lifelines, and protecting insecure stockpiles of nuclear materials and weapons – and how much on protecting the U.S. homeland from terrorist attacks. In broad organizational terms, this relates to funding of new Department of Homeland Security's activities versus those of the foreign operations of the Defense, State, Energy and Treasury Departments, the FBI, and the CIA. A second major issue concerns the general scope of the Administration's counterterror effort. A question is whether the effort here should target terrorist groups widely, including groups with local agendas that do not necessarily single out Americans for attack, or whether it should focus on Al Qaeda, which many observers see as the most immediate foreign threat to U.S. security. A related question concerns the potential effects of military intervention in Iraq: would war in Iraq create a backlash in the Islamic world, fuel terrorism or divert significant attention and resources from the international fight against Al Qaeda, as some Administration critics suggest? Or is it a necessary step to prevent Iraq from developing weapons of mass destruction that could fall into the hands of terrorists?

Congressional oversight can play a significant role in evaluating the effectiveness of different policy tools employed in combating international terrorism, as well as their potential diplomatic or political consequences. For example, in given situations, covert action to infiltrate and disrupt terrorist leaderships might produce better results and less collateral damage than military strikes against suspected terrorist concentrations; addressing possible changes to constraints or guidelines that affect activities such as recruitment of informants thus could become a legislative priority. It has been argued that applications of certain measures, such as ones calculated to disrupt terrorist financing, are perceived as broadly anti-Islamic and project a negative U.S. image abroad; hence, ways of minimizing such external costs may be explored. An increased focus on "nation-building" strategies to address the economic and political preconditions of terrorism also might be considered in crafting an overall counterterrorism policy. Whether the different instruments selected are mutually coherent, and whether in certain situations the risks of using

them exceed the expected rewards are important concerns for Congress and the Administration.

CRS Products:

CRS Terrorism Briefing Book [<http://www.congress.gov;brbk/html/ebter1.shtml>]

CRS Issue Brief IB95112, *Terrorism, the Future and U.S. Foreign Policy*, by Rensselaer Lee and Raphael Perl.

CRS Report RL31539, *Nuclear Smuggling and International Terrorism*, by Rensselaer Lee.

Threat from Al Qaeda and Other Terrorist Groups

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Congress and the Bush Administration are working to ensure that Al Qaeda or other terrorist groups are not able to conduct terrorist attacks in the United States or against U.S. interests abroad on the scale of the September 11, 2001 attacks. There is widespread agreement that the U.S.-led war in Afghanistan has significantly weakened Al Qaeda by denying it a central base, but there are differing opinions within and outside the Administration over whether Al Qaeda could still conduct another catastrophic attack. Two terrorist attacks in October 2002 – one against an oil tanker off the coast of Yemen and another in Bali, Indonesia, that killed nearly 200, both of which were allegedly conducted by Al Qaeda supporters or affiliates – have raised U.S. concerns that Al Qaeda could be regrouping and gearing up for new major attacks. Investigators are attempting to determine whether attacks on November 28, 2002, against an Israeli-owned hotel (18 killed) and an Israeli passenger aircraft in Kenya (unsuccessful) were the work of Al Qaeda.

An audio-taped threat by Al Qaeda founder Osama bin Laden, released in November 2002, and believed by U.S. officials to be authentic, has apparently confirmed that he is still alive. CIA Director George Tenet told Congress on October 17, 2002, that the recent attacks and threats indicate an Al Qaeda “threat environment” comparable to that which existed prior to the attacks of September 11, 2001. At the same time, the Administration has confirmed some recent major arrests of alleged Al Qaeda operatives, including the capture in November 2002 of Al Qaeda’s key organizer for the Persian Gulf region. Additional arrests on this scale, over time, may weaken Al Qaeda to the point where it is no longer a significant threat.

U.S. officials say that the effort against Al Qaeda is worldwide and multifaceted, involving diplomatic and financial, as well as military actions. Much of the current U.S. effort is intended to capture Al Qaeda leadership and operatives worldwide, although U.S. military efforts within Afghanistan are now focused primarily on shoring up the fledgling government of Afghanistan and preventing that country’s re-emergence as a base for terrorist groups. Further options could include greater use of armed unmanned U.S. aircraft, such as the Predator that was used to strike a senior Al Qaeda operative in Yemen in early November, 2002. Press reports suggest that

U.S. intelligence is stepping up activities in the tribal areas of western Pakistan in an effort to find Al Qaeda founder Osama bin Laden and other leaders. Other press reports say the United States might confront Saudi Arabia directly in an effort to persuade it to crack down on financial donations by Saudis to Islamic charities that might, knowingly or unknowingly, be supplying funds to terrorists.

Congress is taking an active role in overseeing the U.S. campaign against Al Qaeda and other terrorist movements. Several hearings have already been held since the September 11 attacks, including those on the warning signs apparently available to intelligence and law enforcement prior to the September 11 attacks. Congress will also likely review Administration attempts to shore up the anti-terrorism coalition and might provide benefits to key coalition partners, including U.S. foreign assistance and approval of major military sales. Congress might also decide on whether or not to impose economic or other sanctions against countries deemed uncooperative.

CRS Products:

CRS Report RL31119, *Terrorism: Near Eastern Groups and State Sponsors, 2002*, by Kenneth Katzman.

Intelligence Issues

Richard A. Best, Jr., Specialist in National Defense (7-7607)

The war on terrorism places significant demands on intelligence agencies. National collection systems designed to provide data about foreign missile silos and large military installations may not be the best platforms for acquiring information on the identities and plottings of terrorist groups. New approaches may be needed; there will undoubtedly be renewed emphasis on human intelligence and the need for officers with varied language skills and awareness of different cultures. The statutes and regulations that govern the collection, analysis, and dissemination of information by intelligence and law enforcement agencies were not written to support the counterterrorist efforts that are now seen by many as necessary; some changes have been made since September 11, 2001 and Congress may seek to enact further modifications. There will also be complex issues regarding the appropriate balance between security and civil liberties as intelligence and law enforcement agencies work more closely together. Intelligence for counterterrorism has already had significant budgetary implications and may require additional resources or possibly the transfer of funds from other intelligence efforts.

CRS Reports:

CRS Issue Brief IB10012, *Intelligence Issues for Congress*, by Richard A. Best.

CRS Report RL31292, *Intelligence to Counter Terrorism*, by Richard A. Best.

Military Responses

Steve Bowman, Specialist in National Defense (7-7613)

Afghanistan. Large-scale military operations have ended in Afghanistan. Small unit operations continue to search for remaining Taliban/Al-Qaeda supporters and their arms caches. The roughly 8,000 U.S. troops and 4,000 troops of the International Security Assistance Force (ISAF) still encounter sporadic firefights and shelling from dissident Afghan forces. The major decision confronting Administration officials and congressional oversight committees is what role the U.S. military should play, and to what extent it should become involved, in the reconstruction of Afghanistan. Most observers agree that international troops must remain in Afghanistan for the foreseeable future, and that the U.S. military should play a leading role. The central government remains weak and warlords of dubious allegiances dominate the countryside. The Bush Administration had hoped to turn over the reconstructive period to international peacekeepers and civilian agencies; however, the ISAF will not operate outside of the capital Kabul, and it has been left to U.S. forces to intercede and mediate internecine Afghan disputes. In a policy shift, Department of Defense (DOD) officials announced in late 2002 that U.S. Central Command will begin to send teams of combat soldiers, civil affairs specialists, and Afghan central government troops to regional centers to stabilize out-lying areas and facilitate reconstruction projects. Details of the size and scope of these operations have not been released. Though no official estimates of how long U.S. forces will remain in Afghanistan have been made, it would appear that the challenges of reconstruction in Afghanistan are even more difficult than those confronted in the Balkans, where U.S. troops have been stationed for a decade.

Philippines, Gruzia (Georgia), and Yemen. In 2002, DOD began training missions to these countries to assist in combating terrorists in their remoter regions. The Philippine mission involved about 1,000 U.S. troops and ended in July with only the partial disruption of the Abu Sayyaf terrorist group. Though there was noticeable opposition to the U.S. presence among some of the Filipino population, the United States and the Philippines have signed a Mutual Logistics Support Agreement, and there is continuing speculation U.S. forces will return in January 2003. In Gruzia (Georgia), the training program will involve about 150 U.S. instructors to improve the Gruzian military's ability to deal with the rebel forces from Chechnya who are using the Pankisi Gorge as a refuge. Reported links between the Chechen rebels and Al Qaeda have led U.S. officials to consider this operation part of the war on terrorism. In Yemen, another 150 U.S. instructors are working to improve the government's anti-terrorism capabilities, and are assisting in the search for Al-Qaeda operatives in the northern tribal areas of the country. Though relatively inexpensive, these activities do place a heavy burden upon the limited personnel resources of the Special Operations Command which has been supplying the instructors. If such efforts are continued or expanded, additional resources and higher personnel ceilings may be required. If war with Iraq occurs, these missions may be curtailed.

Covert Operations. Press reports indicate that Secretary Rumsfeld intends to increase DOD's covert operations against terrorists worldwide. This is a field which has belonged primarily to the Central Intelligence Agency, and increasingly to its paramilitary personnel, as evidenced by the November, 2002 missile attack on

Al-Qaeda operatives in Yemen. The extent to which increased DOD activity in this area would be complementary or competitive to CIA operations remains to be seen.

CRS Products:

CRS Terrorism Briefing Book. [<http://www.congress.gov;brbk/html/ebter1.shtml>]

CRS Report RL30588, *Afghanistan: Current Issues in U.S. Policy*, by Kenneth Katzman.

CRS Report RL31265, *Abu Sayyaf: Target of Philippine-U.S. Anti-Terrorism Cooperation*, by Larry Niksch.

CRS Report RS21319, *Pankisi Gorge: Russian Concerns and U.S. Interests*, by Jim Nichol.

Budgetary Aspects of the War on Terrorism

Stephen Daggett, Specialist in National Defense (7-7642)

Amy Belasco, Consultant in National Defense (7-7627)

Since the September 11, 2001 terrorist attacks, the Department of Defense (DOD) has received \$30 billion in supplemental appropriations for prosecuting the war in Afghanistan, mobilizing reserves to enhance protection at military installations, increasing intelligence and surveillance activities, maintaining combat air patrols over U.S. cities in the months following the attacks, accelerating munitions production, and rebuilding the Pentagon. Of the \$30 billion total, about \$13 billion funded military operations in Afghanistan and related areas. The FY2003 Defense Appropriations Act (P.L. 107-248) provides \$9 billion more for activities and programs associated with the war on terrorism, including additional funds for munitions, unmanned aerial vehicles (UAVs), intelligence and communications systems, reserve mobilization costs, and special pay for personnel involved in military operations.

DOD requested another \$10 billion in the FY2003 defense appropriations bill as a contingency fund for unspecified future military operations. Although the funds were authorized in the FY2003 Defense Authorization Act (P.L. 107-314), the appropriations committees did not provide the funds in the regular FY2003 Defense Appropriations Act (P.L. 107-248), and they did not take up separate legislation to provide funding.

DOD appears to be financing ongoing costs in Afghanistan as well as the cost of mobilizing forces and deploying equipment for a potential war with Iraq using either supplemental appropriations or regular FY2003 funding. The Administration is expected to request supplemental appropriations to cover those additional expenses either in February, when the FY2004 budget is submitted, or shortly thereafter. (See the section of this report entitled "Estimates of the Cost of a Potential War with Iraq" for further information.)

CRS Products:

CRS Report RL31305, *Authorization and Appropriations for FY2003: Defense*, by Stephen Daggett and Amy Belasco.

CRS Report RL31406, *Supplemental Appropriations for FY2002: Combating Terrorism and Other Issues*, by Amy Belasco and Larry Nowels.

Reconstruction of Afghanistan

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The 108th Congress will face funding and oversight issues concerning transitional and reconstruction efforts in Afghanistan, even as U.S. and allied forces continue the hunt for Al Qaeda forces and Taliban leaders. U.S. and international efforts in Afghanistan focus on three areas: first, enhancing security, using the International Security Assistance Force (ISAF), and the future Afghan National Army and police force; second, developing a political framework for governance and reintegration in the international community; and third, creating an economic reconstruction strategy.

The most serious challenge in Afghanistan today is the lack of security due partly to the fact that former commanders maintain control over their own areas and continue fighting with their rivals. A recent initiative by the Pentagon would expand the role of the U.S. military in Afghanistan to support local security and reconstruction. This marks a departure from relying entirely on the development of an Afghan national army or expansion of the ISAF for security, and engages U.S. forces beyond military action to oust the Taliban and Al Qaeda. Although U.S. soldiers have been involved in a number of small reconstruction projects in Afghanistan, they will now apparently take a more robust approach to the provision of security and reconstruction assistance in areas outside Kabul.

Congress will continue to actively guide developments in Afghanistan through appropriations and oversight. According to the U.S. Agency for International Development (USAID), the U.S. government provided \$184.3 million in FY2001, and over \$530 million in FY2002, in humanitarian and reconstruction assistance to Afghanistan. No figures for Afghan assistance were provided in the Administration's budget request for FY2003, although the Administration has said it will spend about \$300 million in FY2003.

The Afghanistan Freedom Support Act of 2002 (P.L. 107-327), which authorizes an additional \$3.3 billion for Afghanistan over four years was signed into law on December 4, 2002. Included is \$2 billion for humanitarian, reconstruction, and enterprise fund assistance through FY2006; \$300 million worth of available defense articles and equipment from U.S. military stocks for Afghanistan and other countries and organizations participating in Afghan security; and an additional \$1 billion over two years to support ISAF.

With regard to oversight, Congress is likely to maintain an active interest in burdensharing. So far, the international community has recognized that large

amounts of aid and resources will be required in the reconstruction effort. In addition, many observers believe a long-term commitment will be necessary if a stable, democratic Afghanistan is to emerge and not fall prey to the twin evils of drugs and terrorism. While the international donors conference held in Tokyo, Japan in January, 2002, generated large aid commitments for reconstruction in Afghanistan, it also produced cost estimates of more than \$15-\$30 billion over the next decade. A total of \$1.8 billion was pledged for 2002, although some pledges have not yet been fulfilled. There have been some reports that Afghan officials have complained about the slow pace at which pledged funds were being paid. Others argue that the problem is due to a lack of absorptive capacity in Afghanistan. Furthermore, the way in which funds are distributed – be it multilaterally through U.N. agencies or bilaterally with funds supporting international organizations and NGOs directly – appears also to be contributing to the delay.

CRS Products:

CRS Report RL30588, *Afghanistan: Current Developments and U.S. Policy*, by Kenneth Katzman.

Possible War with Iraq

Introduction

Kenneth Katzman, Specialist in Middle Eastern Affairs (7-7612)

The Bush Administration has identified the regime of Saddam Hussein in Iraq as a grave potential threat to the United States. The Administration asserts that Iraq is in defiance of 16 U.N. Security Council resolutions that, among other requirements, mandate that Iraq fully declare and eliminate its weapons of mass destruction (WMD) programs. President Bush has stated that Iraq must fully cooperate with a new U.N. disarmament effort, or the United States will lead a coalition to disarm Iraq, presumably through a major U.S.-led military offensive.

The statements by President Bush, coupled with reports of a slow but steady U.S. military buildup in the Persian Gulf, clearly indicate that war against Iraq is likely if Iraq does not fully cooperate with a new U.N. disarmament effort. That effort is being conducted under the mandate of a U.N. Security Council Resolution, 1441, adopted unanimously on November 8, 2002. The resolution requires a complete declaration by Iraq of all its WMD, and gives U.N. weapons inspectors new authorities to conduct surprise, unfettered inspections everywhere in Iraq. The inspections began November 27, 2002, and the inspection organization, UNMOVIC (U.N. Monitoring, Verification, and Inspection Commission) has said it would report to the Security Council by January 27, 2003 on its findings, as required by the resolution. Many observers believe that the Security Council will be split in its evaluation of the new inspections regime. The United States and Britain are likely to point to any hint of Iraqi non-cooperation as evidence of Iraq's intention to hide WMD capabilities. Their past positions in Council debates on Iraq suggest that France, Russia, and China are likely to have less concern about individual Iraqi violations as long as Iraq, for the most part, is cooperating with the new inspections.

The outcome of such Council deliberations could determine whether or not the United Nations authorizes military action against Iraq to enforce its inspection mandates.

The Bush Administration's decision to confront Iraq under a U.N. umbrella has led the Administration to mute its prior declarations that the goal of U.S. policy is to change Iraq's regime, but U.S. officials say regime change remains official U.S. policy and the ultimate U.S. goal, whether or not Saddam Hussein cooperates with the new inspections effort. Press reports in October, 2002, said that the Administration is recruiting an Iraqi opposition force by using drawdown authorities and monies provided in the Iraq Liberation Act (P.L. 105-338, October 31, 1998). Such a force could support a U.S. attack or work on its own to destabilize Saddam Hussein, whether or not there is a war against Iraq.

On October 16, 2002, President Bush signed into law H.J.Res. 114 (P.L. 107-243), authorizing the President to use U.S. armed forces to protect U.S. national security and enforce applicable U.N. resolutions on Iraq. Congress has held several hearings on the possibility of U.S. war against Iraq and is expected to hold further hearings on the progress of U.N. inspections and the continuing threat from Iraq. Congress might take an active role in any international debate on Iraqi compliance, as it did in H.J.Res. 114 and a 1998 joint resolution (S.J.Res. 54, P.L. 105-235, August 14, 1998), which stated that Iraq was in material breach of its obligations under applicable U.N. resolutions.

Military Options

Steve Bowman, Specialist in National Defense (7-7613)

The Department of Defense has officially released no information concerning war planning or preparations against Iraq. There have been, however, significant news leaks which provide some insights. News reports have indicated that the military options under discussion vary significantly in their assumptions regarding Iraq military capabilities today, the usefulness of Iraqi opposition groups, the attitude of other governments in the region, and the U.S. military resources that would be required.

A possible "heavy" option would involve 250,000 or more troops, and would combine an air offensive with up to four U.S. armored and mechanized divisions. This option is greatly dependent upon the cooperation of other nations in the region for substantial staging areas/airbases and could require months to deploy the necessary forces. A possible "lite" option would entail extensive use of special operations forces in cooperation with indigenous Iraqi opposition forces, coupled with an air offensive to destroy Hussein's most reliable Republican Guard units, command & control centers, and WMD capabilities. This approach assumes that the regular Iraqi army will prove unreliable, and may even join opposition forces once it is clear that defeat is imminent. With both "heavy" and "lite" options reportedly having been set aside for a variety of reasons, news reports indicate that the plan of choice appears to be a blend of the two. Involving perhaps 80,000 U.S. troops, this option appears to focus not on the size of the U.S. force, but rather upon the diversity of units attacking, and very close coordination of air and ground attacks. Indigenous forces would not necessarily play a large role, though some effort likely would be

made through Central Intelligence Agency teams and special operations units to gain their cooperation. Particular efforts may be made to isolate and neutralize key Iraqi leadership. Regardless of the option chosen, there are concerns that war with Iraq will stretch U.S. military resources given other commitments, including Afghanistan and the worldwide war on terrorism. Special operations forces and other high demand assets may be especially overtaxed.

Unless there are shifts in the international political scene, it does not appear that U.S. military action against Iraq will feature a coalition similar to that formed for Desert Storm in 1991, and this could constrain significantly the options open to U.S. planners. The Persian Gulf states' cooperation would be particularly vital given the extensive air force facilities and prepositioned equipment there, as would the cooperation of Turkey along Iraq's northern borders.

Iraqi armed forces are significantly degraded from their 1991 levels; however, the possibility of strong Republican Guard resistance in urban areas and Iraq's possible use of chemical and/or biological weapons, in theater or strategically, present particularly difficult challenges to U.S. planners. Ultimately, the psychological reaction of the Iraqi leadership, armed forces, and civilian population will be major factors in determining the course of any war.

Estimates of the Cost of a Potential War with Iraq

Stephen Daggett, Specialist in National Defense (7-7642)

Amy Belasco, Consultant in National Defense (7-7627)

The Department of Defense has not provided any estimates of the potential costs of a war with Iraq. The cost of the ongoing mobilization of military forces and equipment for a conflict in Iraq are presumably being funded using regular FY2003 appropriations with the expectation that a FY2003 supplemental would reimburse those accounts.

In September 2002, the Congressional Budget Office prepared estimates of the costs of two illustrative campaigns – a heavy ground option involving 370,000 troops deployed to the region and a heavy air option involving 270,000 troops. Based on CBO's assumptions, the cost of a war that lasted three months would be between \$32 billion and \$47 billion. Occupation costs for a year would total between \$12 billion and \$48 billion more. (Congressional Budget Office, Letter to Senator Kent Conrad, Chair, Senate Budget Committee, and Congressman John M. Spratt, Jr., Ranking Member, House Budget Committee, with attachment "Estimated Costs of a Potential Conflict with Iraq," September 30, 2002. Available at [<http://www.cbo.gov>])

Earlier the Democratic staff of the House Budget Committee prepared an estimate based on costs of the Persian Gulf War of 1991. (House Budget Committee, Democratic Caucus, "Assessing the Cost of Military Action Against Iraq: Using Desert Shield/Desert Storm as a basis for Estimates," September 23, 2002. [http://www.house.gov/budget_democrats/analyses/spending/iraqi_cost_report.pdf]). Its estimates ranged from \$31 billion for a conflict lasting 30 days with 125,000 troops to \$60 billion for a conflict lasting 60 days with 250,000 troops. The estimate also calculated that interest costs of increasing the deficit to finance the war would total an additional \$17 to \$33 billion over 10 years. The study did not address

occupation or reconstruction costs. With interest included, the total cost for a 60-day war using 250,000 troops could be about \$93 billion over 10 years, near the low-end of the \$100 billion to \$200 billion estimate made by the President's former economic adviser, Lawrence Lindsey. On December 30, 2002, however, OMB Director Mitch Daniels downplayed the Lindsey estimate, suggesting that the cost of a war with Iraq could be about \$50 billion to \$60 billion.

The Congressional Budget Office and the House Budget Committee Democratic staff estimated only the direct budgetary effects of a war. Neither considered possible economic consequences, which could, in turn, affect federal revenues and outlays indirectly. In November, William Nordhaus of Yale University prepared a study that estimated the total economic costs, including the effects of a possible recession triggered by a protracted war, the destruction of Iraqi oil fields, and the cost of a lengthy occupation. (William D. Nordhaus, "Iraq: The Economic Consequences of War," *New York Review of Books*, December 5, 2002) Using the CBO and House Budget Committee staff estimates as a starting point, he calculated that total costs could range from \$120 billion on optimistic assumptions to \$1.6 trillion on unfavorable assumptions.

Possible Post War Implications

Jeremy Sharp, Analyst in Middle Eastern Affairs (7-8687)

A war in Iraq could have major political and diplomatic repercussions for U.S. interests in the Middle East region, namely maintaining the position of an "honest broker" in the Arab-Israeli peace process, securing the support of key Arab countries in the war on terrorism, and bolstering the Bush Administration's efforts to improve the U.S. image in the Arab world. The conduct of any U.S. military campaign and the nature of a new Iraqi government would be the two most decisive factors in influencing, either positively or negatively, U.S. interests in the Middle East.

If the United States is forced to fight a slow and largely urban war, with heavy Iraqi civilian casualties and a lengthy period of lawlessness and instability, Arab regimes such as Egypt, Jordan, and Saudi Arabia could face moderate to severe levels of civil unrest. These regimes might choose to restrict media coverage of the war and its aftermath, ban public demonstrations, and arrest Islamists and other opponents. Although many analysts believe that these states have the capacity to control their populations and manage dissent, a sustained period of heightened repression could engender sympathy for anti-U.S. views, which could erode U.S. efforts to improve regional perceptions of the United States through public diplomacy. U.S. critics in the region might try to incite hostility toward the United States by drawing parallels between a U.S. occupation of Iraq and the Israeli military occupation in parts of the West Bank and Gaza Strip. Refugee flows from Iraq could add to regional instability.

If, however, the United States is able to force a regime change in Iraq without war, or through a short war with minimal civilian casualties, the image of the United States as a "liberator" could gain more credibility in Iraq and more broadly in the Middle East. A new Iraqi regime could outline a timetable for greater political freedoms in Iraq, strengthening U.S. efforts to promote democracy and human rights in the Middle East. Some observers argue that developments along these lines would

create a more favorable environment for a settlement of the Israeli-Palestinian conflict. Congress can play an active role in shaping the outcome through its oversight of a possible military campaign and rebuilding of Iraq.

Following a war or significant “regime change” in Iraq, the United States will likely seek to influence future internal political and economic developments in that country. Congress may be asked to provide funding for a range of foreign assistance programs that would facilitate U.S. long-range objectives in Iraq. The extent and cost of U.S. programs in Iraq would depend on the post-war scenario. The Administration may ask Congress to appropriate new funds for refugees and/or to support coalition partners in the Middle East, who may suffer economically in the event of regional instability. Congress may also be asked to authorize a program of assistance specific to Iraq along the lines of the FREEDOM Support Act of 1992 that authorized aid to the former Soviet Union or the Afghanistan Freedom Support Act of 2002. In considering aid levels, Congress will have to weigh aid to Iraq against other aid priorities. Some suggest that Iraqi oil resources could be employed to pay for any long-term development programs; this, of course, would be dependent on the condition of oil production infrastructure at the end of the war. Others, as in the case of Kosovo, may demand that other donors, particularly those that did not participate in military operations, pick up the majority of costs for post-war activities. Such options would have to be weighed against the advantages of U.S. control over programs that it itself funds and implements.

CRS Products:

CRS Issue Brief IB92117, *Iraq: Weapons Threat, Compliance, Sanctions, and U.S. Policy*, by Kenneth Katzman.

CRS Report RS21325, *Iraq: Divergent Views on Military Action*, by Alfred Prados.

CRS Report RL31585, *Possible U.S. Military Intervention in Iraq: Some Economic Consequences*, by Marc Labonte and Gail Makinen.

CRS Report RL31339, *Iraq: U.S. Efforts to Change the Regime*, by Kenneth Katzman.

CRS Report RL31629, *Iraq-U.S. Confrontation: International Attitudes*, by Jeremy Sharp.

CRS Report RL31667, *Iraq-U.S. Confrontation: Chronology and Scheduled Events*, by Jeremy Sharp

North Korean Crisis

Larry A. Niksch, Specialist in Asian Affairs (7-7680)

North Korea's decision in late December, 2002 to restart nuclear installations at Yongbyon that were shut down under the U.S.-North Korean nuclear Agreed Framework of 1994 creates a major arms control and foreign policy problem for the United States. North Korea's major motive appears to be to escalate pressure on the Bush Administration to negotiate over Pyongyang's proposed non-aggression pact and/or a new nuclear agreement that would provide new U.S. benefits to North Korea. However, re-opening the Yongbyon facilities opens up a possible North Korean intent or option to stage a "break out" of its nuclear program in 2003 and openly produce nuclear weapons.

The 1994 Agreed Framework obligated North Korea to suspend the operations of its nuclear facilities and allow the secure storage of 8,000 nuclear fuel rods removed from a nuclear reactor in May, 1994. The United States, in turn, organized an international consortium, the Korean Peninsula Energy Development Organization (KEDO), which was to construct two light water nuclear reactors (LWRs) inside North Korea and provide North Korea with 500,000 tons of heavy oil annually until the construction of the first LWR was completed. Before North Korea received nuclear components for the LWRs, it was to come into full compliance with its 1992 safeguards agreement with the International Atomic Energy Agency (IAEA). Except for the special status given to the Yongbyon facilities by the Agreed Framework, the Agreed Framework specified that North Korea would abide by the IAEA safeguards agreement with regard to any other nuclear activities and abide by the 1991 North Korea-South Korea denuclearization agreement, which specifically prohibited any North Korean nuclear program based on uranium enrichment. There reportedly is a "secret minute" to the Agreed Framework. Press reports have said that this secret minute prohibits North Korea from constructing any new nuclear facilities.

The Bush Administration speeded up the construction of the LWRs, which had fallen well behind the completion target date of 2003, but it also pressed North Korea to begin a three to four year process of complying with its obligations to the IAEA or face a suspension of the LWR project. After the September 11, 2001 terrorist attack, the Administration issued demands that North Korea dismantle its weapons of mass destruction, stop proliferating weapons to the Middle East and South Asia, and withdraw its heavy troop concentrations from the Korean demilitarized zone. These demands stressed unilateral North Korean actions to meet U.S. concerns and contained no specific offers of reciprocal U.S. actions. President Bush's declaration of North Korea as a member of an "axis of evil" began a series of demands to North Korea suggesting penalties if it did not meet U.S. concerns.

The Administration sent Assistant Secretary of State James Kelly to North Korea in early October, 2002, for the first substantive U.S.-North Korea negotiation since December, 2000. Kelly presented the North Koreans with U.S. evidence that North Korea was conducting a secret nuclear weapons program based on uranium enrichment. U.S. intelligence evidence of the secret program had built up since 1998. The North Koreans surprised the Administration by admitting to the program and asserting that they had the right to possess nuclear weapons. The Kelly visit

prompted the Administration to formulate a policy of “containment and isolation” if North Korea did not end the secret program. The policy consisted of (1) a refusal to negotiate any new nuclear agreement with North Korea until North Korea ended the secret nuclear program and came into compliance with the past agreements which it was violating; (2) an unwillingness to engage in any other type of sustained dialogue with North Korea; (3) assembling an international coalition to pressure North Korea, the most important members being South Korea, China, Japan, and Russia; (4) imposing an initial penalty on North Korea by suspending the shipments of heavy fuel oil to North Korea and warning of a total termination of the Agreed Framework; and (5) warnings of future international economic sanctions.

The intensity of North Korea’s counter-move in re-opening the Yongbyon facilities again took Administration officials by surprise, by their own admission. North Korea announced through its official media and a letter of December 27, 2002, to the IAEA that it would restart its nuclear reactor and plutonium reprocessing plant that were in operation until 1994 and resume construction of two larger reactors. The most dangerous follow-up North Korean move would be to move the 8,000 stored fuel rods into the plutonium reprocessing plant for the production of nuclear weapons-grade plutonium. According to estimates by nuclear experts and reportedly by U.S. intelligence agencies, if North Korea began to reprocess the fuel rods, it would take about four months to produce weapons grade plutonium and another one or two months to produce four to six atomic bombs. Such action by North Korea – a nuclear breakout – would put considerable pressure on the Bush Administration’s initial policy responses to the re-opening of the Yongbyon facilities.

The Administration’s reaction to the re-opening of Yongbyon has been to repeatedly disavow any “military option” such as bombing Yongbyon and state that it is open to diplomatic contact with North Korea—but not negotiation of a new agreement. The Administration reportedly is considering seeking cooperation from an international coalition in instituting economic sanctions against North Korea, possibly through the U.N. Security Council and interdicting North Korean shipments of weapons to Middle East and South Asian countries. Such a strategy would aim at North Korea’s greatest vulnerability – its already deteriorating economy. The option of economic sanctions, however, is encountering growing resistance from China, Russia, and South Korea. They support the general U.S. position on North Korea’s nuclear policies, but they have criticized the idea of economic sanctions and have called on the United States to engage in dialogue with North Korea. The South Korean position has come about as a result of growing South Korean public criticism of the 37,000 U.S. troops stationed in South Korea and the election in December, 2002, of a presidential candidate, Roh Moo-hyun, who ran on a platform critical of U.S. policies.

Congress approved the Administration’s requests for money for KEDO operations from FY 1996 through FY 2002. Congress will take up the relevant foreign operations appropriations bill for FY 2003 in early 2003. In view of the new situation since the Kelly mission to Pyongyang, Congress will have an important decision—whether to continue to provide funds for heavy fuel oil and the operation of KEDO or to discontinue funding and thus add another step toward the termination of the Agreed Framework.

CRS Products:

CRS Issue Brief IB91141, *North Korea's Nuclear Weapons Program*, by Larry A. Niksch.

CRS Issue Brief IB98045, *Korea: U.S.-Korean Relations—Issues for Congress*, by Larry A. Niksch.

Weapons of Mass Destruction and Missile Proliferation

Sharon Squassoni, Specialist in National Defense (7-7745)

Congress continues to confront several challenges related to weapons of mass destruction (WMD): how to defend against possible WMD attacks in light of the terrorist threat and how to prevent further proliferation of WMD capabilities globally and in the case of specific countries – most notably Russia, China, Iraq, Iran, North Korea, India and Pakistan. In addition to nonproliferation regimes and treaties, bilateral agreements and export controls, the possibility of preemptively eliminating WMD capabilities has gained currency in the Bush Administration and elsewhere in the context of Iraq and the broader war on terrorism.

Since September 11, 2001, increased concerns about a nexus between WMD and terrorism has helped drive strategy and tactics for the war on terrorism. Key issues for the 108th Congress will include: a) does the threat of WMD use push us toward preemption? b) if so, does a policy of preemption increase the WMD threat to U.S. and allied forces? c) does the threat of preemption undermine the existing regime of treaties and agreements or does it strengthen those regimes? Closer to home, preparations to defend against a possible WMD attack – for example, an initiative to vaccinate critical workers against smallpox – will continue to present budgetary, health, infrastructure and homeland security concerns. Congress will continue to be involved in assessing and/or funding programs to enhance detection of WMD-related materials at home, and, possibly, abroad.

A key activity of Congress is expected to be the oversight of funding and programs designed to cut off terrorist access to WMD and WMD-related materials “at the source” – securing materials at sites around the globe, particularly where terrorism and WMD capabilities intersect. First on the list of potential suppliers are Russia and former Soviet republics. Since 1991, the United States has provided assistance to these states in securing and eliminating nuclear and other weapons of mass destruction through the Nunn-Lugar Cooperative Threat Reduction (CTR) Program. Among the issues that Congress may address when it reviews this program in the coming year are the total level of funding for non-proliferation assistance to Russia, priority for specific projects, Russia’s financial commitment and cooperation in implementing these programs, and possible CTR-type assistance to nations outside the former Soviet bloc. The Russian Debt Swap for Nonproliferation Act, which created a new funding stream for nonproliferation programs in Russia, will be an area of oversight interest.

The 108th Congress will likely face issues related to proliferation of WMD capabilities from Russia, China, and North Korea. In particular, sales of missiles and missile technologies from these states, particularly to such clients as Iran and Pakistan, will likely be closely watched, as well as destabilizing missile deployments like short-range Chinese missiles facing Taiwan. If the Agreed Framework with North Korea fails, North Korea may resume missile testing. Other developments of potential interest include the recently signed International Code of Conduct Against Ballistic Missile Proliferation, which seeks to complement the existing Missile Technology Control Regime through wider membership and incentives for nonproliferation; and potential sales of Arrow or other missile defense systems to volatile regions like South Asia.

Concern about “secondary proliferation” – that is, states of proliferation concern that produce WMD for sale to other countries – could spark interest in new measures to capture the activities of those states outside nonproliferation regimes. Recent reports of Pakistan’s provision of enrichment-related technology to North Korea will raise questions. On the one hand, Pakistan’s assistance in the war on terrorism is considered by some to be important enough to offset nonproliferation concerns about its own nuclear weapons, but assistance to a nation which the Administration has characterized as part of an “axis of evil” may be viewed in a different light. The Bush Administration, if it waives the requirement to place sanctions on Pakistan under the Symington amendment to the Foreign Assistance Act (now section 101 of the Arms Export Control Act), will need to inform Congress of that waiver.

North Korea presents proliferation challenges across the board. In particular, North Korea’s admission in October, 2002, of a clandestine uranium enrichment program caused the Bush Administration to suspend heavy oil shipments to North Korea (a key U.S. obligation under the Agreed Framework) beginning in December, 2002. Administration officials indicated that the United States intended to terminate the Agreed Framework at that time. North Korea’s actions to reactivate its nuclear facilities in late December, 2002, has further exacerbated the situation. The 107th Congress continued to provide funding for implementation of the agreement, but the new Congress may review this funding, especially when it takes up the foreign operations appropriations legislation for FY2003. The Administration continues to press North Korea to take steps toward ending missile deployments and sales and its chemical and biological weapons programs.

Finally, the 107th Congress authorized President Bush to use military force against Iraq, in part to enforce Iraq’s compliance with U.N. resolutions to eliminate its WMD programs. Given the seven previous years of inspections with ambiguous results (1991-1998), the 108th Congress may find itself in an early debate over the conclusiveness of the inspection results. Further, if war appears to be inevitable, Congress will be keenly interested in how to protect our forces against the use of WMD and how to prevent the further dissemination of Iraq’s WMD to terrorists or state sponsors of terrorism.

CRS Products:

CRS Report RL30699, *Nuclear Biological and Chemical Weapons and Missiles: the Current Situation and Trends*, by Sharon Squassoni.

CRS Report RL31559, *Proliferation Control Regimes: Background and Status*, by Sharon Squassoni.

CRS Report RL31671, *Iraq: U.N. Inspections for Weapons of Mass Destruction*, by Sharon Squassoni.

CRS Report 97-1027F, *Nunn-Lugar Cooperative Threat Reduction Programs: Issues for Congress*, by Amy Woolf.

Foreign Affairs

Introduction

Susan Epstein, Specialist in Foreign Affairs (7-6678)

Larry Nowels, Specialist in Foreign Affairs (7-7645)

The first session of the 108th Congress will consider legislation for foreign policy authorization, as well as budgetary legislation, including the continuing resolution for FY2003 funding and FY2004 international affairs appropriations. Every two years Congress is required, by law, to authorize spending for the Department of State, its foreign policy programs and personnel, or waive the requirement. Dovetailed with the biannual authorization legislation are the two annual foreign affairs appropriations including: 1) Commerce, Justice, State and Related Agencies, and 2) Foreign Operations. Typically, these bills become vehicles for a full range of foreign relations-related measures. The Administration further plans to submit legislation authorizing a new foreign aid initiative – the Millennium Challenge Account (see below) – early in the year.

Among the first items of legislative business expected in the new Congress is the enactment of the eleven FY2003 appropriation bills that stalled in 2002. Among these unfinished measures are the two main foreign policy spending bills covering State Department programs and foreign assistance activities. Last year, the Commerce, Justice, State (CJS) appropriation was reported in the Senate (S. 2778) but received no action in the House. Senate and House Appropriation Committees each reported Foreign Operations bills (S. 2779 and H.R. 5410) that recommended slightly higher amounts than the President requested for FY2003. Following discussions between the White House and congressional leaders since the November elections, it appears that there will be pressure, especially in the Senate, to pare back amounts proposed last year for both CJS and Foreign Operations in order to remain within the President's overall budget framework in FY2003. The Administration and Congress may seek the use of supplemental appropriation bills for a more targeted funding approach. Congressional leaders reportedly hope to have the appropriation issues resolved by the end of January.

U.S. Foreign Aid and Development

Millennium Challenge Account. [Larry Nowels, Specialist in Foreign Affairs (7-7645)] Early in the new Congress, lawmakers will be asked by the Administration to authorize and fund a new U.S. foreign aid initiative – the Millennium Challenge Account – announced by President Bush in March 2002. Despite strong records of achievement by some developing nations and significant advances in several development sectors, such as child immunization and health, many nations are poorer today despite receiving substantial amounts of foreign aid over the past 40 years. Some critics argue that U.S. aid has failed because of poor accountability and lack of commitment by developing country governments. Others contend that U.S. strategic interests often took precedence over development goals, thereby diminishing chances for economic results. And for many years, the United States has faced international criticism for contributing too little of its economic wealth for promoting development among the world's poorest nations.

The MCA, which is characterized by the White House as a fundamentally new and innovative approach to the delivery of bilateral American development aid, is based on the premise that economic development succeeds best where it is linked to free market economic and democratic principles and policies. Only a small number of countries – less than 20 – that have demonstrated strong performance in the three areas of good governance, economic freedom, and investments in people, will participate in MCA programs. The President's initiative proposes that over a three year period, FY2004 to FY2006, U.S. economic aid will increase by \$5 billion over the roughly \$12 billion current amount, and remain at least at that level beyond FY2006. If fully implemented, the MCA would represent one of the largest increases in foreign aid spending in half a century.

To manage the MCA, the Administration proposes the creation of a Millennium Challenge Corporation, a new independent government entity separate from the Departments of State and Treasury and from the U.S. Agency for International Development (USAID). The White House envisions a staff of about 100, drawn from various government agencies and non-governmental organizations. A review board, chaired by the Secretary of State and composed of other cabinet officials, would oversee operations of the MCC. The President would nominate a CEO to run the Corporation, a position that would require Senate confirmation.

As Congress considers the MCA proposal, debate will likely center around several key questions:

- ! Will MCA criteria better ensure success?
- ! Will the selection process identify the “best performers”?
- ! How will the U.S. support needs in non-performing nations?
- ! Does a new government agency need to be created?
- ! Given the mounting budget deficit, can the U.S. afford the initiative?
- ! Are the MCA goals consistent with those of other international aid donors?

CRS Products:

CRS Report RL31687, *The Millennium Challenge Account: Congressional Consideration of a New Foreign Aid Initiative*, by Larry Nowels.

HIV/AIDS. [Tiaji Salaam, Foreign Affairs Analyst (7-7677)] The United States has significantly increased spending on international HIV/AIDS programs since 2000. Many expect the 108th Congress to be active in the area of HIV/AIDS and global health generally.

According to the Joint United Nations Program on HIV/AIDS (UNAIDS), there are 42 million people living with HIV/AIDS worldwide. There were 5 million people newly infected with the virus, and 3.1 million people died from AIDS in 2002. Sub-Saharan Africa holds the majority of people living with HIV/AIDS with 29.4 million people infected. Fifty-eight percent of Africans living with HIV/AIDS are women. The second greatest number of people living with AIDS can be found in Asia and the Pacific, estimated at 7.2 million HIV positive people. More than half of HIV positive Asians are in India (3.97 million) and China (1 million). Although only 1.2 million people are infected with HIV in Eastern Europe and Central Asia, that region has the fastest-growing HIV infection rates, with an estimated 250,000 new infections in 2002. In Russia, some 200,000 people were infected with HIV in mid-2002, up from 10,993 reported cases at the end of 1998. UNAIDS reports that the registered HIV cases in Russia likely underestimate the actual number of people living with the virus by a large margin, just as in Latin America and the Caribbean, where an estimated 1.9 million people live with HIV/AIDS. In terms of infection rates, it is the second-most affected region in the world, after Africa. Finally, there are an estimated 550,000 people living with HIV/AIDS in the Middle East and North Africa.

The Bush Administration proposes to spend \$1.32 billion on international HIV/AIDS programs in FY2003, up from \$360 million in FY2000. In the 107th Congress, both the Senate and House passed versions of a bill (H.R.2069) to authorize increased HIV/AIDS spending, but the two versions did not make it to conference. The Senate version called for \$2.65 billion while the House report called for \$1.29 billion.

On September 3, 2002, near the end of the second session of the 107th Congress, the President proposed changes to the FY2003 Department of Health and Human Services (DHHS) Appropriations and the Foreign Operations Appropriations to add \$200 million for his International Mother to Child Transmission (MTCT) Initiative. President Bush proposed \$500 million over three years to prevent the transmission of HIV from mother to child and to build health infrastructure in Africa and the Caribbean. Much of international HIV/AIDS funds come from DHHS and Foreign Operations Appropriations bills. The House Foreign Operations Committee included funds for the MTCT Initiative in its FY2003 Foreign Operations bill, H.R. 5410. The Senate Foreign Operations bill (S.2779), already reported out on July 24, 2002, did not.

The United States is the largest donor to the Global Fund to Fight AIDS, Tuberculosis and Malaria, a new funding mechanism to fight the three diseases. The Global Fund has received \$2.1 billion in pledges, with the United States pledging \$500 million. The first round of grants were awarded in April 2000 to fund projects totaling \$616 million in 40 countries. However, only \$700 million has been received, with \$300 million appropriated by Congress to date. Some may advocate legislation to increase United States funding to the Global Fund in the 108th Congress while others may argue that U.S. allocations to the Global Fund should increase only after others donate additional money.

CRS Products:

CRS Report RL31433, *U.S. Global Health Priorities: USAID's Global Health FY2003 Budget*, by Tiaji Salaam.

CRS Report RS21181, *HIV/AIDS International Programs: FY2002 Spending and FY2003 Outlook*, by Raymond W. Copson.

CRS Report RS21340, *The Global Fund to Fight AIDS, Tuberculosis, and Malaria: Background and Current Issues*, by Raymond W. Copson and Tiaji Salaam.

Humanitarian Crises and Refugees. [Rhoda Margesson, Foreign Affairs Analyst (7-0425)] In the 108th Congress, humanitarian assistance may continue to have a strong measure of bipartisan support and priority. While humanitarian assistance is assumed to be urgent food, shelter and medical needs, the very nature of humanitarian disasters – the need to respond quickly in order to save lives and provide relief – often demands an unrestricted definition on both a policy and operational level. While it is impossible to predict when or where a humanitarian or natural disaster may next occur, three cases clearly of interest to Congress include the potential humanitarian emergency in Iraq, an emerging refugee problem involving North Korea, and the ongoing humanitarian concerns in Afghanistan.

Implications of a possible war in Iraq include a potential humanitarian emergency with population movements across borders or within Iraq itself. Currently there are a small number of non-governmental organizations in Iraq. UN agencies provide the bulk of humanitarian assistance in the form of food and medicine. Over 60 percent of 24 million people in Iraq rely on monthly food shipments or government rations. How a war is fought and for how long, whether it is a protracted, urban war with heavy civilian casualties or a shorter war with less impact on the Iraqi people, would be critical factors. Secondly, what type of humanitarian assistance to be provided to displaced populations (aid priorities, possible use of oil revenues) and the role of other donors would be of congressional interest. Thirdly, how such assistance would be implemented – through U.S. occupation, UN administration, or UN donor assistance – could be major issues. And finally, the impact of refugee flows on stability in the region and the role of neighboring countries in contributing to post-war efforts would be important.

Congress has become increasingly concerned about the status of the estimated tens of thousands of North Koreans living illegally in China. Since the spring of 2002, over 100 of these individuals, most of whom reportedly have crossed the border in search of food, have entered foreign embassy compounds and requested asylum, mostly from South Korea. While China has allowed the asylum-seekers to proceed to South Korea, it has cracked down on the North Korean migrant population as a whole, reportedly sending thousands back to North Korea in accordance with a 1986 border agreement with Pyongyang. There are reports that upon their return to the North, some border-crossers are subject to detention, torture, forced labor and/or execution. China officially considers the North Korean border-crossers to be economic migrants, rather than political refugees, and has not allowed United Nations relief agencies access. In the 107th Congress, a number of measures were introduced condemning China's actions and/or calling for the U.S. to assist the refugees. However, none of them was passed.

Population movements continue in and out of, and within, Afghanistan. It is estimated that there are still 3 million Afghan refugees, mostly in Iran and Pakistan. Some date back to previous wars; others are part of the recent conflict. The approximate number of internally displaced persons (IDPs) remaining to date is roughly 750,000. Although nearly two million Afghan refugees were repatriated in 2002, the total number of people requiring relocation assistance is still considerable. With no sustainable livelihood, many of these refugees are forced to seek assistance either within Afghanistan or outside its borders. There is some "recycling" of refugees – those who repeatedly cross borders for economic and family reasons, flee because of crime and fighting, or migrate because of lack of food. Central to successful and sustainable resettlement is a sound economic reconstruction strategy. Among other competing challenges, Congress is expected to actively monitor progress on reconstruction and the role of U.S. forces in this effort. It may also review assistance levels. There is some concern that the budget constraints U.N. High Commissioner for Refugees (UNHCR) is facing (already it has had to reduce its welcome home package) may mean inadequate levels of assistance followed by an increase in refugees crossing back into Pakistan and Iran, repeat migration of former IDPs, or an increase in urban refugees. Congress is also likely to consider burden sharing with other donor countries in its support of the reconstruction effort.

Many in Congress hold that disaster assistance should be provided whenever possible with foreign assistance funds through non-governmental agencies. The role of the military in post-emergency transition and reconstruction or "nation-building" is still evolving as demonstrated by developments in Afghanistan. The use of Department of Defense funds and personnel may continue to be controversial.

CRS Products:

CRS Issue Brief IB98045, *Korea: U.S.-Korean Relations – Issues for Congress*, by Larry A. Niksch.

CRS Report RL30472, *Iraq: Oil-for-Food Program, International Sanctions and Illicit Trade*, by Ken Katzman

U.N. Population Fund (UNFPA). [Larry Nowels, Specialist in Foreign Affairs (7-7645)] U.S. population assistance and family planning programs overseas have sparked perhaps the most consistent controversy during annual Foreign Operations appropriations debates for nearly two decades. At the moment, the most contentious issue is whether the United States should contribute to the U.N. Population Fund (UNFPA) if the organization maintains a program in China where allegations of coercive family planning have been widespread for many years. During the Reagan and first Bush Administrations, the United States did not contribute to UNFPA because of these concerns. In 1985, Congress passed the so-called Kemp-Kasten amendment which has been made part of every Foreign Operations appropriation since, barring U.S. funds to any organization that supported or participated “in the management” of a program of coercive abortion or involuntary sterilization. The Clinton Administration restored funding to UNFPA citing a different interpretation of Kemp-Kasten.

For FY2002, Congress appropriated “not more than” \$34 million for UNFPA, but in January 2002 the White House placed a hold on the money pending a review of whether UNFPA’s activities in China violated Kemp-Kasten. A State Department team concluded in May that while China maintains coercive elements in its population programs, UNFPA does not knowingly support or participate in them. Although the team recommended releasing the \$34 million, Secretary of State Powell determined on July 22 to withhold funds from UNFPA. The State Department’s analysis of the Secretary’s determination found that even though UNFPA did not “knowingly” support or participate in a coercive practice, that alone would not preclude the application of Kemp-Kasten. Instead, a finding that the recipient of U.S. funds – in this case UNFPA – simply supports or participates in such a program, whether knowingly or unknowingly, would trigger the restriction.

Congressional critics of the determination to suspend UNFPA funds support legislation incorporated into the Senate-reported FY2003 Foreign Operations Appropriations bill (S. 2779) that would reverse the executive’s decision. That measure modified the Kemp-Kasten language by requiring a finding by the Secretary of State that an organization “directly participates in the practice of coercive abortion or involuntary sterilizations” before declaring the group ineligible for U.S. support. Instead of the current, more implicit standard under which Kemp-Kasten has been interpreted, this new language would appear to set a more rigorous and specific test for determining whether UNFPA or any other organization fell under the Kemp-Kasten conditions. S. 2779 further appropriated \$50 million for UNFPA in FY2003. The House-reported companion measure (H.R. 5410) earmarked \$25 million for UNFPA, based, however, on the condition that UNFPA not fund the State Planned-Birth Commission or its regional affiliates in China.

Because Congress adjourned without enacting the FY2003 Foreign Operations spending measure, the legislation will be re-introduced in the 108th Congress and may be one of the first items considered in the new session. Whether the Senate Appropriations Committee under a new majority will support changes to the Kemp-Kasten language proposed in S. 2779 remains unclear. Congressional supporters of UNFPA, however, are expected to press for similar legislation related to both the unfinished FY2003 appropriation as well as the FY2004 Foreign Operations bill that will be taken up later in the year.

CRS Products:

CRS Issue Brief IB96026, *Population Assistance and Family Planning Programs: Issues for Congress*, by Larry Nowels.

Authorization of World Bank and IDA. [Jonathan E. Sanford, Specialist in International Political Economy (7-7682)] In 2003, Congress will consider legislation to authorize U.S. participation in the thirteenth replenishment of the World Bank's concessional aid facility, the International Development Association (IDA 13.) It will also consider legislation to authorize U.S. participation in new funding plans for the Asian Development Fund (AsDF) and African Development Fund (AfDF). For IDA 13, the U.S. contribution would be \$2.85 billion over 3 years, 20.1% of the total. Legislation authorizing U.S. participation in the IDA 13 and ADF replenishments (H.R. 2604) was considered in 2002, but final action was deferred until the 108th Congress. Some funds were appropriated in 2002 to partly fund U.S. contributions, but final action on the authorizations is needed for U.S. participation to become effective.

The IDA 13 replenishment is the product of lengthy negotiations, the central issue in dispute being the proposal by President Bush that IDA provide half the aid it channels to poor countries in the form of grants rather than low-cost loans. Some other donor countries felt very strongly that this proposal, while well intentioned, would seriously undercut IDA's finances and endanger its long-term continuity. The IDA 13 agreement provides for 18%-to-21% grants, a compromise roughly half the President's goal. Administration leaders commend it as a major breakthrough. The IDA 13 replenishment can go into effect without U.S. participation, but the grant program will not likely start without U.S. involvement and support.

Focusing on the controversy about grants obscures the other provisions of the IDA 13 plan, on which there was broad international support. It also includes provisions to increase IDA effectiveness, promote further poverty reduction, and implement new procedures for monitoring and evaluating the success of IDA programs. The plan makes changes in the World Bank's country strategy process and IDA's global and regional goals. These include, among other things, increased emphasis on capacity building to improve governance and combat corruption, more consultation and disclosure, and a tighter link between country strategies, IDA aid and IDA's performance-based allocation system. The key issue appears to be, not the content of the IDA 13 plan, but concern whether the World Bank will be able to implement it and realize its goals. To cast light on this, Congress may examine how the World Bank implemented the reform goals in the prior IDA 12 replenishment plan.

CRS Products:

CRS Issue Brief IB96008, *Multilateral Development Banks: Issues for the 108th Congress*, by Jonathan E. Sanford.

Economic Sanctions

Dianne E. Rennack, Specialist in Foreign Policy Legislation (7-7608)

The use of economic sanctions – coercive economic measures taken against one or more countries or entities to force a change in policies, or at least to demonstrate a country’s opinion about the other’s policies – has generally been supported by both the Congress and the President as an option to combat various threats to the United States. Three recent developments – the war against terrorism, an international rise in the proliferation of weapons of mass destruction, and confrontation with Iraq – have had a major impact on all aspects of foreign policy and national security, including the use of economic sanctions.

At times, managing terrorism, proliferation, and conflict with Iraq within the framework of current U.S. law has been challenging. Enlisting Pakistan’s cooperation and providing foreign aid to that country after events of September 11, 2001, for example, required Congress to enact exemptions from sanctions imposed on Pakistan after its 1998 nuclear tests and after the 1999 military coup d’etat. Despite U.S. concerns about human rights, proliferation, or regional stability in Central or South Asia, several frontline states in the war against terrorism in those regions received substantial U.S. foreign aid after 9/11.

The 108th Congress may be faced with the issue of which should have a higher priority – proliferation of weapons of mass destruction or terrorism (leaving aside other issues that could trigger sanctions, such as democracy or human rights) – and shape U.S. law to address that exigency. In order for Pakistan to receive foreign aid in FY2003, for example, the President is required to certify that providing such funding facilitates Pakistan’s return to democratic rule and such funding is important to U.S. antiterrorism efforts. In the interim, however, there have been news reports that Pakistan may have provided technology to North Korea that furthered North Korea’s pursuit of nuclear capability. If the President determines that such a transaction occurred between the two countries, a new round of economic sanctions against both countries would be required by U.S. law. In another recent development, the Administration may have shown its greater determination in the war against terrorism, when it released Scud missiles to Yemen en route from North Korea, a transfer that violated an agreement between the United States and Yemen. At a minimum, the 108th Congress might scrutinize recent technology and material transfers to South Asia, with the imposition of sanctions on both the giving and receiving states a possible outcome.

To aid the fight against terrorism, the 108th Congress might also take up reauthorization of the Export Administration Act of 1979. Efforts to renew this Act – including the authority to create the Terrorist List maintained by the Department of State (the “6(j) list”), restrict trade for foreign policy or national security reasons, impose sanctions for missile, chemical and biological weapons proliferation – have been plagued by controversy since 1994. Though the Act has been extended for short periods, and its authorities have been continued by the President invoking national emergency authority, the Export Administration Act has needed serious attention since its first expiration in 1990. (See section entitled “Export Administration Act”)

Transactions between third countries and Iraq might similarly pose challenges for the 108th Congress. Recent reports have either Ukraine or China, or both, providing radar technology to Iraq. Both countries have denied such deals took place. Under current law, third country transactions with Iraq could trigger punitive measures from the United States against the third country. Yet Ukraine and China might be considered important to the war against terrorism.

CRS Products:

CRS Trade Briefing Book, *Economic Sanctions: An Overview*, by Dianne E. Rennack. [<http://www.congress.gov;brbk/html/ebtra87.html>]

CRS Terrorism Briefing Book, *Economic Sanctions and Incentives*, by Dianne E. Rennack. [<http://www.congress.gov;brbk/html/ebter90.html>]

CRS Issue Brief IB10061, *Exempting Food and Agriculture Products from U.S. Economic Sanctions: Status and Implementation*, by Remy Jurenas.

CRS Report RL31502, *Nuclear, Biological, Chemical, and Missile Proliferation Sanctions: Selected Current Law*, by Dianne E. Rennack.

CRS Report RS20995, *India and Pakistan: Current U.S. Economic Sanctions*, by Dianne E. Rennack.

Europe/Eurasia

Overview. [Paul E. Gallis, Specialist in European Affairs (7-7679)]

Congress is likely to follow a number of policy issues in European security, the Balkans, and Russia during the 108th Congress. NATO continues its post-Cold War evolution, with uncertainty on a number of fronts. The Senate will be asked to consider seven new candidates, and examine their potential contribution to a military alliance that is seeking to develop new capabilities and assume responsibility for possible engagements outside the traditional European theater. The Balkans remain the principal area of instability in Europe, with U.S. peacekeeping forces engaged throughout the region. The Administration, against the wishes of the allies, is seeking to reduce U.S. force levels in Bosnia, Kosovo, and Macedonia; there is discussion in the Administration that U.S. forces in the Balkans would better serve U.S. interests if deployed or held in readiness for service elsewhere around the globe. Russia, despite its continuing military weakness, remains of great interest to U.S. policymakers due to its political influence, geographic reach, and potential for future engagement in regions of concern to Washington. Congress is likely to continue to debate the appropriate balance between the opportunity to secure Russia as a friend able to contribute to the conflict against terrorism and the belief that Moscow's human rights transgressions and record in proliferation must be addressed.

NATO: Enlargement and Future Missions. [Paul E. Gallis, Specialist in European Affairs (7-7679)] Congress is likely to continue to evaluate NATO to determine how the alliance may contribute to combating new threats to the United

States, such as terrorism and the proliferation of weapons of mass destruction (WMD). At NATO's Prague summit in November 2002, President Bush asked the allies to contribute to a new initiative to develop technologies and weapon systems for fighting terrorism in regions around the globe; however, the allies have been reluctant to increase their defense budgets and to accept an area of responsibility beyond Europe. NATO's continuing importance to the United States may hinge on the allies' acceptance of the new initiatives considered at Prague.

The allies at Prague agreed to consider 7 European countries for membership. In early 2004, the Senate is likely to debate the qualifications of these states, and it must amend the North Atlantic Treaty to admit them to the alliance. As in the last round of enlargement, the Senate may use the debate to discuss NATO's mission, and whether that mission meets U.S. needs in fighting terrorism and curbing WMD, issues that both houses are likely to address in hearings and floor debates.

The essence of the debate over NATO's future is a return of the long-discussed issue of burdensharing. Congress has long contended that the United States bears a disproportionate share of the burden of combating threats to allied interests. Because some key allies do not share the urgency of the Administration's perception of the gravity of the threat of terrorism and WMD, Congress and the Administration may find difficult the effort to persuade the allies to upgrade defense capabilities and to accept the possible need for engagement in such areas as the Middle East, North Africa, and South Asia, the regions from which the perceived threat may emanate.

CRS Products:

CRS Report RS21354, *The NATO Summit at Prague*, by Paul Gallis.

CRS Report RS21055, *NATO Enlargement*, by Paul Gallis.

CRS Terrorism Briefing Book, *NATO and the European Allies*, by Paul Gallis.
[\[http://www.congress.gov;brbk/html/ebter64.html\]](http://www.congress.gov;brbk/html/ebter64.html)

Stability in the Balkans. [Steven Woehrel, Specialist in European Affairs (7-2291)] Since 1991, the United States has committed tens of thousands of peacekeeping troops, billions of dollars in assistance and fought an air war in an effort to bring stability to the Balkans and promote democracy and free markets there. U.S. policymakers have seen stability in the Balkans as an important part of creating a Europe "whole, free, and at peace," a key U.S. policy objective. On the other hand, although European countries currently provide the lion's share of troops and aid to the region, the Bush Administration has pressed European countries to take on a greater share of the burden, given U.S. commitments elsewhere.

In foreign aid appropriations legislation, the 108th Congress will consider how much aid to provide for the reconstruction of Bosnia, Serbia, Kosovo and other countries in the region, and how the burden should be shared with European countries. The 107th Congress limited U.S. aid to Kosovo to no more than 15% of the total amount pledged by all countries. The 108th Congress will also debate the conditions under which that aid should be given. In October 2002, U.S. officials said

they had uncovered “clear evidence” that Bosnian Serb and Yugoslav-government-owned firms had sold military equipment to Iraq. Possible conditions on aid to Serbia, Montenegro, and Bosnia could therefore include ensuring that those governments halt any arms sales and military assistance to Iraq and other countries of concern. Aid to Serbia could also be conditioned on Belgrade’s cooperation with the International Criminal Tribunal for the former Yugoslavia, as the 107th Congress had done.

Congress will monitor the progress of the countries of the region in fighting terrorism. Since the September 11, 2001 attacks, Al Qaeda cells in Albania and Bosnia have been shut down by local governments, in cooperation with the United States. However, rampant organized crime and corruption in the region continue to provide an environment in which terrorists can operate. Members of Congress may consider further reductions of U.S. troop deployments in the Balkans, citing more pressing priorities, such as the war on terrorism. The Bush Administration has gradually reduced U.S. troop levels in the Balkans, as conditions on the ground have permitted and in agreement with NATO allies and other troop contributing countries. Currently, there are about 1,900 U.S. troops in Bosnia and about 4,300 in Kosovo.

CRS Products:

CRS Issue Brief IB93056, *Bosnia: U.S. Military Operations*, by Steven R. Bowman.

CRS Issue Brief IB10027, *Kosovo and Macedonia: U.S. and Allied Military Operations*, by Steven R. Bowman.

CRS Report RL30371, *Serbia and Montenegro: Current Situation and U.S. Policy*, by Steven Woehrel.

Russia and U.S.-Russia Relations. [Stuart D. Goldman, Specialist in Russian Affairs (7-7685)] U.S.-Russian relations were transformed after September 11, 2001, based on cooperation against international terrorism and Russian President Putin’s policy of integrating Russia with the West. At the same time, Putin’s domestic policies continue to combine measures of pro-market economic reform and political authoritarianism. The net result has been increased bilateral cooperation and reduced tension in many areas, while strong differences remain on some issues.

The 108th Congress will probably deal with a significant number Russian issues related to international security, trade, and political and economic developments within Russia. The Senate is expected to decide on whether to give its advice and consent to the Treaty on Strategic Offensive Reductions, signed in May 2002, a treaty which is widely viewed as fully encompassing the Bush Administration’s arms control objectives.

In recent years, Congress has taken a leading role in addressing the dangers of WMD (weapons of mass destruction) proliferation from Russia through such initiatives as the Nunn-Lugar Cooperative Threat Reduction Program. The 108th Congress will consider the effectiveness and appropriate funding level of this and

other threat reduction efforts, including a new initiative, the Russian Federation Debt Reduction for Nonproliferation Act of 2001 (included in P.L. 107-228).

Another, more contentious, aspect of Russia's role in nonproliferation and counterterrorism has also drawn strong congressional attention in the past and will likely continue to do so, i.e., Russian transfers of nuclear reactors and ballistic missile technology to Iran and Russian cooperation with and support of Iraq. Congress in the past has conditioned assistance to Russia on changed Russian behavior on these issues.

The 108th Congress also faces a set of interrelated trade issues: permanent normal trade relations (PNTR) and WTO accession for Russia, application of the Jackson-Vanik Amendment to Russia, the potential for increased U.S.-Russian energy cooperation, and tension over U.S. poultry exports to Russia and Russian steel exports to the United States.

Congress may choose to weigh in on Russia's Chechen conflict – as a human rights issue, a terrorism issue, and as an international security issue in connection with its impact on neighboring states such as Georgia, which has been pressured by Russia over harboring Chechen rebel fighters.

The 108th Congress may also continue its predecessors' interests in monitoring Russian developments – and U.S. efforts to influence those developments – in such areas as economic reform, legal reform, religious and press freedom, and human rights.

CRS Products:

CRS Issue Brief IB92089, *Russia*, by Stuart D. Goldman.

CRS Report RL31448, *Nuclear Arms Control: The Strategic Offensive Reductions Treaty*, by Amy F. Woolf.

CRS Report RS21123, *Permanent Normal Trade Relations (PNTR) Status for Russia and U.S.-Russian Economic Ties*, by William H. Cooper.

CRS Report RL31543, *Russian National Security Policy After September 11*, by Stuart D. Goldman

Latin America

Overview. [Mark P. Sullivan, Specialist in Latin American Affairs (7-7689)] Attention to Latin America in the 108th Congress will likely focus on counter-narcotics efforts, trade issues, and potential threats to democracy and stability. U.S. counter-narcotics efforts in the region will focus on continuation of the Administration's Andean Regional Initiative supporting Colombia and its neighbors with foreign assistance in their struggle against drug trafficking and drug-financed terrorist groups. With regard to trade, now that negotiations with Chile for a bilateral free trade agreement are completed, Congress will likely consider implementing legislation for the agreement under fast track procedures; in addition, congressional

oversight may focus on negotiations for a Free Trade Area of the Americas agreement scheduled for completion in January 2005, and on the beginning of negotiations for a free trade agreement with Central America. (See section entitled "Trade Agreements and Negotiations") While Latin America has made significant progress over the past two decades in strengthening democratic institutions and practices, several nations have economic and political crises that may threaten democratic order, particularly Argentina and Venezuela. Cuba remains the region's non-democratic holdout and Congress will likely continue to debate the appropriate U.S. policy approach. Haiti's persistent poverty and political instability will remain a concern. Finally, Congress will likely maintain an active interest in neighboring Mexico, with a myriad of trade, migration, border and drug trafficking issues dominating U.S.-Mexico bilateral relations.

Andean Regional Initiative. [Nina Serafino, Specialist in International Security Affairs (7-7667)] Both the continuing high levels of drug-funded violence in Colombia and the increasing political power of forces opposed to U.S.- funded coca eradication programs in the Andean region challenge U.S. attempts to curb drug-trafficking and to strengthen democracy in Latin America. Because efforts to cut drug trafficking have resulted in little or no reduction in the amount of Andean-produced cocaine flowing to the United States, the 108th Congress can be expected to scrutinize the effectiveness of the Andean Regional Initiative (ARI). The ARI is the Bush Administration's continuation and expansion of the Clinton Administration's "Plan Colombia," a development and military strategy for dealing with drug trafficking in Colombia and its spillover effects in surrounding countries, especially Peru and Bolivia. In 2002, the Bush Administration requested, in conjunction with action on FY2002 supplemental appropriations (P.L. 107-206), authority to expand U.S. military assistance to Colombia beyond counternarcotics in order to address all threats against Colombia's national security. The 107th Congress did not grant broad authority in those terms, but it did expand existing authorities to cover "anti-terrorism" activities and emergency situations.

The 108th Congress' first action regarding the ARI is likely to be a decision on funding for the President's FY2003 \$980 million request. In 2002, the House and Senate appropriations committees each approved their versions of the FY2003 foreign operations appropriations bill (H.R. 5410, S. 2779), but there was no further action. Regarding the ARI, the House Appropriation Committee's version fully funds the President's request; the Senate Appropriations Committee's version cut \$94 million from it. Major issues for the future include whether the United States should further expand assistance to Colombia in combating guerrilla and paramilitary forces, whether the status of human rights conditions in Colombia under President Alvaro Uribe (who took office in August 2002) warrant continued aid, and whether U.S.-funded alternative development projects can provide those who give up growing coca with adequate livelihoods.

Cuba. [Mark P. Sullivan, Specialist in Latin American Affairs (7-7689)] As in past years, the main issue for U.S. policy toward Cuba in the 108th Congress will be how best to support political and economic change. In the debate over U.S. policy, there have been different schools of thought about how to achieve that objective. Some advocate keeping maximum pressure on the Communist government of Fidel Castro by maintaining the current U.S. embargo until reforms

are enacted, while continuing efforts to support the Cuban people. Others argue for an approach, sometimes referred to as constructive engagement, that would lift some U.S. sanctions they believe are hurting the Cuban people, and move toward engaging Cuba in dialogue. Still others call for a swift normalization of U.S.-Cuban relations by lifting the U.S. embargo. Over the past several years, legislative initiatives have reflected these various approaches. In the second session of the 107th Congress, the House approved three amendments to the FY2003 Treasury Department appropriations bill (H.R. 5120) that would have eased restrictions on travel, remittances, and commercial agricultural and medical sales to Cuba; final action on the measure was not completed before the end of the session. In 2003, Congress will likely continue its high level of interest in Cuba, with a variety of legislative initiatives regarding sanctions and human rights that will be of interest to a varied group of American stakeholders with differing interests.

Haiti. [Maureen Taft-Morales, Specialist in Latin American Affairs (7-7659)] The main issues for U.S. policy toward Haiti during the 108th Congress will likely continue to be how to promote democratic development, economic growth, and political stability in hopes of alleviating poverty, limiting illegal immigration from Haiti, and reducing drug trafficking through Haiti. Almost two years into President Jean-Bertrand Aristide's five-year term, election disputes from 2000 remain unresolved, political turmoil has increased, the economy is in crisis, and human rights conditions have worsened. Major donors, including the United States, have directed aid to Haiti through non-governmental organizations, withholding direct aid to the government until Aristide enacts promised political, judicial, and economic reforms. Critics argue that withholding aid to the government is contributing to Haitian poverty, instability, and illegal migration. The Senate Appropriations Committee's version of the FY2003 foreign operations appropriations bill (S.2779) would prohibit assistance to Haiti except through regular notification procedures, and would allow Haiti to purchase defense articles and services for the Haitian Coast Guard. The House Appropriations Committee's version (H.R.5410) would not require notification procedures except for the Coast Guard purchases, and would also provide for "not less than \$52.5 million" in food assistance programs to be allocated to Haiti. Enactment of the legislation will be one of the first items on the agenda of the 108th Congress.

Mexico. [K. Larry Storrs, Specialist in Latin American Affairs (7-7672)] Interest in Mexico in the 108th Congress is likely to focus on trade, migration, border, and drug trafficking issues. Mexico is the United States' second most important trading partner, with two-way trade tripling since 1994 under the North American Free Trade Agreement (NAFTA). Mexico shares a busy and highly interrelated border with the United States and is the source of numerous undocumented migrants, and a major transit point for the flow of illicit narcotics to the United States. Relations between the countries were especially warm during the 2001 visits of President Bush and President Fox, when hopes were high for some sort of migration agreement, but they cooled to some extent when migration talks stalled following the September 2001 terrorist attacks. In November 2002 bilateral meetings, both countries reaffirmed their intention to continue talks toward a migration agreement. During the 107th Congress, action focused on strengthening border security, alien admission policy, and tracking procedures through the USA Patriot Act (P.L. 107-56) and the Enhanced Border Security and Visa Entry Reform Act (P.L. 107-173). With

a similar security focus, the Homeland Security Act (P.L. 107-296) incorporated the INS/Border Patrol, Customs, and other agencies into the new Department of Homeland Security. In the Department of Transportation Appropriations Act for FY2002 (P.L. 107-87), Congress required the Administration to impose stringent safety inspections on Mexican trucks for NAFTA-required access to U.S. highways. In the Foreign Relations Authorization Act for FY2003 (P.L. 107-228) Congress permanently modified the annual drug certification process, which had been an irritant in the bilateral relationship, and instead required the President to designate only those countries that have failed demonstrably to adhere to international counter-narcotics agreements.

Political and Economic Stability in South America. [Mark P. Sullivan, Specialist in Latin American Affairs (7-7689)] Over the past two years, several South American nations have faced political and economic crises that have challenged elected governments and raised concerns for U.S. policy in the region, including support for democracy and economic development, and efforts toward the goal of hemispheric free trade. Congressional oversight of these issues in the 108th will likely focus on the effects on U.S. interests and the appropriate U.S. policy response. In Ecuador, a democratically elected President was ousted in a January 2000 coup after a prolonged economic crisis; in November 2002, retired army colonel Lucio Gutierrez, who had once been jailed for his role in the coup, won the presidency in what were deemed “free and fair” elections. At year end, political tensions in Venezuela (the third largest supplier of foreign oil to the United States) remained high as opposition groups were demanding a referendum on the rule of President Hugo Chavez, who had been ousted briefly from power in April 2002 after massive opposition protests. Chavez’s rule has been marred by controversy as he has revamped Venezuela’s government institutions and polarized the nation with his leftist rhetoric and programs. Argentina’s democratic political system has been under considerable stress since social protests over the country’s deteriorating economy led to the resignation of a democratically elected President in December 2001. The current administration of President Eduardo Duhalde has struggled with a difficult economic situation, which resulted in an agreement to hold the next presidential election several months early, in April 2003. There also has been growing concern about Argentina’s economic instability spreading to neighboring Uruguay, Paraguay, and Brazil, where former labor leader Luiz Inacio Lula da Silva was elected President in October 2002.

CRS Products:

CRS Report RL30971, *Latin America and the Caribbean: Legislative Issues in 2001-2002*, Coordinated by K. Larry Storrs.

CRS Report RL31383, *Andean Regional Initiative (ARI): FY2002 Supplemental and FY2003 Assistance for Colombia and Neighbors*, by K. Larry Storrs and Nina M. Serafino.

CRS Report RS21213, *Colombia: Summary and Tables on U.S. Assistance, FY1989-FY2003*, by Nina M. Serafino.

CRS Report RL30806, *Cuba: Issues for Congress*, by Mark P. Sullivan.

CRS Issue Brief 96019, *Haiti: Issues for Congress*, by Maureen Taft-Morales.

CRS Issue Brief IB10070, *Mexico-U.S. Relations: Issues for Congress*, by K. Larry Storrs.

CRS Report RS20978, *Venezuela: Political Conditions and U.S. Relations*, by Mark P. Sullivan.

CRS Report RL31637, *Spreading Financial Instability in South America*, by J.F. Hornbeck and Martin A. Weiss.

Middle East

Middle East Overview. [Jeremy Sharp, Analyst in Middle East Affairs (7-8687)] The Middle East poses significant policy challenges that will likely be key foreign policy concerns in the 108th Congress. Attention is expected to focus on the continuing confrontation between Israel and the Palestinians, Iraq's weapons of mass destruction (WMD) programs – and the possibility of a major conflict centering on that issue (see section entitled “Possible War with Iraq”), and Middle East aspects of the war on terrorism, including the situation in Afghanistan. (See section entitled “The War on Terrorism”). The Israel/Palestinian peace process, the roles of key regional actors, such as Saudi Arabia, Syria, and Iran, and the prospects for regional stability and/or instability will also be important concerns in the months ahead. Congressional hearings may address broader issues such as U.S. public diplomacy efforts in the Middle East, as well as regional support for religious extremism directed against the United States. Reactions to U.S. policy in the Middle East and elsewhere could also become issues. Finally, U.S. interests in the Middle East, including the security of Persian Gulf oil supplies and defense arrangements in the Gulf, will likely be discussed and could come under review.

Peace Process. [Carol Migdalovitz, Specialist in Middle Eastern Affairs (7-2667)] President Clinton held a summit meeting at Camp David in July 2000 in an attempt to reach a permanent peace accord between Israel and the Palestinians, but no agreement was reached there or at subsequent lower level meetings. On September 28, 2000, the Palestinians began an uprising against the continuing Israeli occupation of much of the West Bank, Gaza Strip, and Jerusalem. The violence and

the failure of the peace process may have contributed to the election of Ariel Sharon as Prime Minister of Israel in February 2001. Sharon refuses to resume negotiations with the Palestinians as long as there is violence, and Israeli forces have retaken control of territories that had been ruled by the Palestinians as a result of interim agreements with Israel since 1994. Since the September 2001 terrorist attacks against the United States, the Administration has come to believe that there is a common U.S.-Israeli battle against terrorism. President Bush reflected this view in his June 24, 2002 speech, calling on the Palestinians to elect leaders "not compromised by terror" and to build a democracy. He said that the United States would support the creation of a Palestinian state when Palestinian leaders fight terrorism. The President also observed that as progress is made on security, Israeli forces would have to withdraw to positions they held before the Palestinian uprising. He envisioned a final settlement within three years, negotiated by the parties based on U.N. resolutions, with Israeli withdrawal to secure and recognized borders. To implement the President's vision, Secretary of State Powell has worked with U.N., European Union, and Russian counterparts as "the quartet" to develop a comprehensive action plan. A plan has been discussed with the parties, but it is not expected to be revealed until after Israeli elections on January 28, 2003. Israeli-Syrian peace talks collapsed in 2000, when Syria demanded that Israel withdraw completely to the June 1967 border and Israel refused. Israel withdrew from southern Lebanon unilaterally in May 2000, but the Lebanese Hizballah, supported by Syria, contends that the withdrawal was incomplete and it continues attacks against Israeli forces in the disputed territory.

Congress has continued to appropriate annual foreign aid for Israel and humanitarian aid to the Palestinians. Israel received approximately \$2.85 billion in U.S. assistance during FY2002. With regard to the Palestinians, \$72 million was allocated to the Israel-occupied West Bank and Gaza during FY2002. U.S. aid to the Palestinians is delivered via non-governmental and international organizations but not to the Palestinian Authority (PA) or to the Palestine Liberation Organization (PLO). Congress has supported relocating the U.S. Embassy in Israel from Tel Aviv to Jerusalem and other steps to recognize Jerusalem as Israel's capital. U.S. Administrations have consistently maintained that Jerusalem is an issue for the parties to negotiate in a peace settlement.

Since the Palestinian uprising, Congress has focused more on anti-Israeli terrorism than on the stalemated peace process. For example, in S.Con.Res. 88 and H.Con.Res. 280, both December 5, 2001, Congress demanded that the PA act against terrorists and urged the President to suspend relations with the PA and its Chairman, Yasir Arafat, if it does not. In P.L. 105-115, January 10, 2002, Congress called on the President to assess PA/PLO actions and impose sanctions based on his assessment. H.Res. 392 and S.Res. 247, both May 2, 2002, express solidarity with Israel and condemn Palestinian leaders. Legislation introduced, but not passed, in the 107th Congress would have imposed restrictions on PLO representatives residing in or traveling to the United States. H.R. 5410, the House-passed version of the Foreign Operations Appropriations Act for 2003, unlike prior legislation, contained a section prohibiting funds to support a Palestinian state unless the Secretary of State determines and certifies that its leadership is democratically elected, committed to peaceful coexistence with Israel, is countering terrorism, and is working toward a comprehensive peace with Israel. This provision was not in the Senate-passed version, S. 2779. If negotiations were to resume, the Administration and Congress

might revisit U.S. relations with the Palestinians with a view to encouraging stability, democracy, and the pursuit of peace.

CRS Products:

CRS Terrorism Briefing Book, *Israeli-Palestinian Peace Process*, by Carol Migdalovitz. [<http://www.congress.gov;brbk/html/ebter158.html>]

CRS Issue Brief IB91137, *The Middle East Peace Talks*, by Carol Migdalovitz.

CRS Issue Brief IB92052, *Palestinians and Middle East Peace*, by Clyde Mark.

CRS Issue Brief IB85066, *Israel: U.S. Foreign Assistance*, by Clyde Mark.

CRS Report RS21235, *The PLO and Its Factions*, by Kenneth Katzman.

Africa

Nicolas Cook, Analyst in African Affairs (7-0429)

Aid to Africa. The Administration requested just over \$1 billion in Development Assistance (DA) for Africa in FY2003. The FY2003 Foreign Operations Appropriations bills reported in the House (H.R. 5410) and Senate (S. 2779) during the 107th Congress did not specify amounts for Africa. Both bills broke the Administration's DA request into a DA component and a component for the Child Survival and Health (CSH) Programs Fund. Both provided more for these programs together than the Administration had originally requested in DA, suggesting that the Administration's spending target for Africa would have been met if foreign operations expenditures had been appropriated. Amounts that may be specified for DA and Child Survival when FY2003 Foreign Operations Appropriations legislation is resubmitted remain to be seen, but could be reduced if competing budget priorities emerge in other areas.

Congressional concern about a growing famine in southern Africa and an emergent one in Ethiopia is likely to continue in the 108th Congress, as is interest in policies to increase good governance and democracy, economic efficiency, and market-oriented economic growth strategies in Africa. The Administration is proposing to create a new federal organization, the Millennium Challenge Corporation, to administer a proposed increase of \$5 billion in foreign economic aid over three years beginning in FY2004. Several African nations would likely be beneficiaries.

International Terrorism and Security Assistance. The 108th Congress may be called upon to reassess levels of terrorism-related security assistance for Africa. African countries have been used by international terrorist groups – including Al Qaeda – as staging and training areas, and as places to attack U.S. and other foreign interests, as well as domestic African targets. Several African countries have social systems and political cultures that may make them vulnerable to influence by violent religious radical groups. U.S. military forces on missions to track, counter,

and prevent terrorist actions are based in the Horn of Africa and reportedly operate elsewhere on the continent. The Administration's FY2003 request for traditional types of military assistance to Africa, such as Foreign Military Financing, and peacekeeping and leadership training, rose slightly or remained roughly equal to amounts in previous years. The Department of Defense and Emergency Supplemental Appropriations Act, 2002 (H.R. 3338/P.L. 107-117) provided \$14 million for HIV-related U.S. military training and humanitarian assistance activities conducted in African nations. Such assistance may be seen as complementing broader, long-term U.S. efforts to prevent the future growth of terrorist groups and other forms of religious and political extremism in Africa by alleviating poverty and fostering social conditions to counter the growth of such phenomena. Efforts such as these include the Bush Administration's proposed Millennium Challenge Account (MCA) and the Administration's recent creation within the U.S. Agency for International Development (USAID) of the Bureau for Democracy, Conflict and Humanitarian Assistance. The MCA would channel development assistance to selected "best performing" poor countries that agree to support policies promoting just governance, investment in people, and economic freedom.

Armed and Political Conflicts in Africa. Congress may seek ways to resolve African conflicts, and to ensure that peace is consolidated in countries emerging from war, possibly through such programs as the Africa Contingency Operations Training Assistance (ACOTA), the successor program to the ACRI, or African Crisis Response Initiative. Sudan generated significant interest in the 107th Congress. President Bush signed the Sudan Peace Act (PL 107-245) in October 2002, and the Administration remains actively engaged in the Kenyan-led Sudan peace process. The government of Sudan and the Sudan People's Liberation Movement (SPLM) have signed several agreements in recent months and are expected to resume talks in early 2003. In Angola, where a long civil conflict ended in early 2002, Administration officials have pledged continued U.S. humanitarian assistance, while urging the Angolan government to use Angola's oil wealth to fund such needs itself, and to undertake reforms to increase government transparency, accountability, and democratization. Growing civil conflicts in the Ivory Coast and Liberia – where a burgeoning conflict could spill into neighboring Sierra Leone, which recently ended its own civil war – may attract increasing congressional concern, as may the drawn-out and desultory peace processes in the Democratic Republic of the Congo and Burundi. Congress is likely to remain concerned about continuing political violence in Zimbabwe, and to carefully monitor potentially volatile election processes in the African nations of Nigeria and Kenya.

HIV/AIDS. The HIV/AIDS pandemic in sub-Saharan Africa is raising concerns about political and economic stability across the region. The United Nations Joint Program on HIV/AIDS estimated that 29.4 million Africans were HIV-positive in 2002, including 3.5 million newly infected during the year. Most HIV-positive Africans cannot obtain anti-retroviral drug treatments, and are likely to die within a few years. In southern Africa, the most severely AIDS-affected part of the world, adult infection rates exceed 20% in seven countries; in Botswana, over 38% of adults are HIV-positive. The USAID estimates that there will be 20 million African AIDS orphans by 2010, unless the disease is curbed. (U.S. Agency for International Development, *Children on the Brink*, 2002.) AIDS-related economic production losses are seen as a key factor contributing to famines threatening much of southern

Africa and Ethiopia. AIDS is making major inroads in West Africa, and there is concern that it will cause socio-economic devastation in Nigeria, Africa's most populous state and an important oil producer.

The 107th Congress increased spending for AIDS-related programs in Africa, but it generally did so indirectly, by authorizing or appropriating funds for the global AIDS programs of USAID, the Centers for Disease Control and Prevention (CDC), and other agencies – which include major Africa components – rather than supporting separate Africa-specific programs. (An exception was an HIV/AIDS prevention program specifically for African armed forces, funded through Department of Defense appropriations). The Administration's FY2003 request includes proposed increases for bilateral AIDS spending and for a contribution to the new Global Fund to Fight AIDS, Tuberculosis, and Malaria. Many advocate sharply increased U.S. funding for AIDS prevention, care, and treatment in Africa, but others regard current spending levels as appropriate, given competing demands on resources, such as mounting AIDS epidemics in Asia, the former Soviet Union, and eastern Europe. If President Bush visits Africa in early 2003, as planned, his trip may focus policy makers' attention on AIDS in Africa and attract new congressional and Administration efforts to counter the epidemic.

Trade. Congress will likely monitor closely the implementation and impact of the African Growth and Opportunity Act (AGOA), enacted by the 106th Congress and amended by the 107th. Some believe that Congress will explore further measures to increase U.S.-African trade and African economic growth. In November 2002, the Administration notified Congress of its intention to negotiate a free-trade agreement with the South African Customs Union (SACU). Some congressional policy makers may seek to bolster the role that African oil producers play in maintaining U.S. energy security and oil supply source diversity. U.S. investment in Africa is concentrated in the oil sector. Much African oil is of high quality and some analysts increasingly view it as of strategic value to the United States. (See section entitled "Trade Agreements and Negotiations").

CRS Products:

CRS Trade Briefing Book, *Africa*, by Lenore Sek.
[\[http://www.congress.gov;brbk/html/ebtra8.html\]](http://www.congress.gov;brbk/html/ebtra8.html)

CRS Issue Brief IB10050. *AIDS in Africa*, by Raymond Copson.

CRS Issue Brief IB95052, *Africa: U.S. Foreign Assistance Issues*, by Raymond Copson

CRS Report RL31247, *Africa and the War on Terrorism*, by Ted Dagne

CRS Report RS21301, *The Food Crisis in Southern Africa: Background and Issues*, by Charles E. Hanrahan.

Asia

Overview. [Dick K. Nanto, Specialist in Industry and Trade (7-7754)] For the 108th Congress, the policy issue with respect to Asia is how to pursue U.S. interests with this half of the world in which countries are extremely diverse in military strength, economic development, political systems, population, ethos, and degree of friendship or hostility toward the United States, and where relations are primarily bilateral because of the lack of a strong, broadly encompassing regional organization (such as NATO or the European Union) through which to work. The challenges for the United States in the region are first, to diminish the threat of terrorism (as manifest by the bombing in Bali and the Taliban who have fled to Pakistan) second, to reduce the threat of war in hot spots (such as across the Taiwan Straits, between nuclear-armed Pakistan and India, or on the Korean peninsula), third, to contain the spread of weapons of mass destruction; fourth, to promote stable economic growth and beneficial trade relations (such as China's adherence to World Trade Organization commitments and free-trade agreements), and, fifth, to continue pressure on countries to improve their human rights and labor records and to adopt more democratic institutions.

People's Republic of China (PRC), Hong Kong, and Taiwan.

[Thomas Lum, Analyst in Asian Affairs (7-7616); Kerry Dumbaugh, Specialist in Asian Affairs (7-7683); Shirley A. Kan, Specialist in National Security Policy (7-7606); Wayne Morrison, Specialist in International Trade and Finance (7-7767)] A key policy issue for the 108th Congress with respect to social problems in the PRC is how to effectively promote human rights within the context of China's rapidly changing economy and society. The Chinese Communist Party (CCP) faces large numbers of disaffected and restive rural and working class citizens and ethnic minorities. In response to economic uncertainty and the loss of the CCP's moral authority, more PRC citizens are turning to religion to fill a spiritual void in their lives. The government has responded harshly to many unauthorized social organizations, especially independent labor unions and un-licensed spiritual organizations like the Falun Gong movement. Rising unemployment and a sluggish economy in Taiwan have also led to labor protests and social divisions there. The intensifying debate in Taiwan between entrepreneurs, who want to expand investment in China, and workers, who fear losing their jobs to cheap PRC labor, has complicated policy formulation for President Chen Shui-bian, who is also concerned about maintaining Taiwan's economic and political autonomy.

China's preoccupation with economic growth and with domestic problems related to increasing disparities of wealth may make the CCP more apt to emphasize stable relations with the United States. However, there likely will be a continuation of human rights abuses in China, and Congress may be called upon to take stands defending the rights of political prisoners and religious followers in China. The 108th Congress will consider Economic Support Fund (ESF) levels for rule-of-law, democracy, and Tibet programs in China in FY 2004-05. The Congressional-Executive Commission on China will continue to monitor and hold hearings on the PRC's compliance with international human rights standards and its progress toward a rule of law.

During the 108th Congress, the PRC, Hong Kong, and Taiwan all will face important political challenges that could affect the policy choices and governance of each. Late in 2002, the PRC replaced most of its senior military and Party leaders, including former Party Secretary Jiang Zemin. Beijing is expected to make equally sweeping changes in senior government leaders in March 2003. U.S. policymakers, then, soon will be facing a new and largely unknown group of PRC decision-makers whose policy preferences remain uncertain. Many wonder what effect the new line-up will have on U.S.-China relations, remarkably smooth of late. In Taiwan, incumbent President Chen Shui-bian will run for re-election in 2004. In the months preceding that campaign, a central issue will be Taiwan's political future – whether to move more toward political independence or toward greater political integration with the PRC. Deep domestic divisions on this topic are likely to mean continued fractiousness in Taiwan's already tumultuous political scene and continued pressure on U.S. officials to support Taiwan. In Hong Kong, after five uneventful years living under PRC sovereignty, the former British colony is contemplating enacting a controversial "anti-sedition law," as required by Article 23 of its de facto constitution, the Hong Kong Basic Law. Some worry that the new law will provide a pretext to crack down on political dissidents, religious groups, and other forms of free expression Beijing finds objectionable, any of which could trigger U.S. policy responses under the U.S.-Hong Kong Policy Act of 1992.

Congress has been concerned about several security issues in U.S. policy toward China, including whether the policy is advancing China's cooperation in weapons non-proliferation, peace and stability in the Taiwan Strait and South China Sea, and the counter-terrorism campaign. Congress has exercised oversight over laws on sanctions, including those affecting satellite exports, as well as renewed military-to-military exchanges; enacted legislation requiring reports on proliferation and China's military buildup; and influenced expanded defense assistance for Taiwan. Options for Congress include holding hearings to assess such aspects of policy toward the PRC and Taiwan, revising laws on sanctions, and reviewing the implications of the increasing trends toward advanced arms sales to and closer military relations with Taiwan.

U.S.-economic relations with the PRC, Hong Kong, and Taiwan will continue to be of interest to Congress as policymakers seek to promote greater market opportunities for U.S. businesses in this economically dynamic region. December 2002 marks the one year anniversary of the PRC's accession to the World Trade Organization (WTO). Administration officials report that Beijing's compliance with its WTO obligations has been mixed. Major points of contention include recently issued PRC regulations on agricultural products and services, which U.S. officials charge limit market access for foreign firms. Members will likely continue to press the Bush Administration to aggressively seek resolution of WTO-related trade disputes. A key issue for Congress is how much resources should be allotted to U.S. government agencies that monitor China's WTO compliance and provide WTO-related training in China. Some Members have expressed concern over Taiwan's growing economic dependence on Mainland China for its trade and overseas investment. Data for the first half of 2002 indicate that the PRC has become Taiwan's largest export market (replacing the United States, which had been the Taiwan's most important market for many years). Some Members have indicated

support for the establishment of a free trade agreement between the United States and Taiwan to promote greater bilateral trade and investment ties.

CRS Products:

CRS Report RS20333, *China and “Falun Gong”*, by Thomas Lum.

CRS Issue Brief IB98034, *Taiwan: Recent Developments and U.S. Policy Choices*, by Kerry Dumbaugh.

CRS Issue Brief IB98018, *China-U.S. Relations*, by Kerry Dumbaugh.

CRS Report RL31555, *China and Proliferation of Weapons of Mass Destruction and Missiles: Policy Issues*, by Shirley A. Kan.

CRS Report RL30957, *Taiwan: Major U.S. Arms Sales since 1990*, by Shirley A. Kan.

CRS Terrorism Briefing Book, *People’s Republic of China*, by Shirley Kan and Kerry Dumbaugh. [<http://www.congress.gov;brbk/html/ebter67.html>]

CRS Issue Brief IB91121, *China-U.S. Trade Issues*, by Wayne M. Morrison.

CRS Report RS20683, *Taiwan and the World Trade Organization*, by Wayne M. Morrison.

Pakistan. [K. Alan Kronstadt, Analyst in Asian Affairs (7-5415)] The policy issue with Pakistan is how to handle relations with this Muslim, nuclear-armed, front-line state in the Afghan campaign while at the same time searching for Al Qaeda who have fled there, reducing the potential for nuclear war over disputed territory in Kashmir, supporting democracy and human rights, and improving relations with neighboring India. Pakistan is an important U.S. ally in the global anti-terror coalition, but the United States is concerned about nondemocratic practices there and possible nuclear weapons proliferation activities. Congress addresses issues with Pakistan primarily through annual foreign assistance authorizations, foreign operations appropriations bills, sanctions, hearings, and waivers authorizing arms sales.

Most U.S. sanctions on Pakistan (imposed after General Pervez Musharraf overthrew a civilian-led government in 1999 and in the wake of Pakistan’s May 1998 nuclear weapons tests) were waived in September 2001. The controversial October 2002 national elections led to the seating of a new civilian government, but Musharraf has been criticized for making constitutional changes that could institutionalize a role for the military in governing Pakistan. In the 107th Congress, legislation was introduced aimed at restoring restrictions on aid to Pakistan through the removal or modification of the President’s waiver authority.

The Pakistani government also may have been involved in the delivery of uranium enrichment materials and/or technologies to North Korea. If President Bush determines that such deliveries have occurred, all non-humanitarian U.S. aid to Pakistan may be halted under the so-called Symington Amendment to the Arms

Export Control Act. Other issues of concern include a proposed \$1 billion in debt forgiveness, continued cross-border infiltration into Indian Kashmir by Islamic militants, the future of Pakistan-U.S. anti-terrorism cooperation, Pakistan's economic reforms, and the recent electoral successes of Islamist politicians who have expressed strongly anti-American and occasionally pro-Taliban sentiments.

India. [K. Alan Kronstadt, Analyst in Asian Affairs (7-5415)] The policy issue with India is how to improve U.S.-Indian relations as the anti-terror campaign has replaced the Cold War in framing the relationship. In September 2001, President Bush waived nuclear weapons-related restrictions on U.S. aid to India. New Delhi's full support for U.S. anti-terror operations marked the beginning of ongoing security cooperation with the United States and has led to joint military exercises and the resumption of defense trade. The United States welcomed the state elections in Jammu and Kashmir in October 2002 that resulted in the ousting of the long-ruling National Conference Party and the establishment of a seemingly more moderate state government that has raised hopes for peace in the region. Yet the India-Pakistan dispute over Kashmir continues to cost lives and keep tensions high, and the nuclear dimension further raises the stakes for regional stability and U.S. interests. In addition, the Congress continues to have concerns about human rights and religious freedom in India, along with bilateral trade and the continuation of reforms in the Indian economy, especially those related to foreign investment.

CRS Products:

CRS Issue Brief IB93097, *India-U.S. Relations*, by K. Alan Kronstadt.

CRS Issue Brief IB94041, *Pakistan-U.S. Relations*, by K. Alan Kronstadt.

CRS Report RS21299, *Pakistan's Domestic Political Developments: Issues for Congress*, by K. Alan Kronstadt.

CRS Report RL31624, *Pakistan-U.S. Anti-Terrorism Cooperation*, by K. Alan Kronstadt.

Southeast Asia. [Mark E. Manyin, Analyst in Asian Affairs (7-7653); Larry A. Niksch, Specialist in Asian Affairs (7-7680)] When dealing with Southeast Asia, Congress will primarily be concerned with overseeing and funding U.S. efforts to combat radical Islamist terrorist groups in the region. Many of these groups, particularly those in the Philippines, Indonesia, and Malaysia, are known to have ties to the Al Qaeda terrorist network. Since the September 11, 2001 attacks against the United States, a number of violent plots against U.S. and other Western targets in the region have been discovered or carried out. The most devastating attack, the October 2002 bombing of a tourist area of Bali, Indonesia, killed nearly 200, including more than one hundred foreign tourists, most of them Australians. To combat the threat, the Bush Administration has significantly increased intelligence cooperation with Southeast Asian countries, deployed troops to the southern Philippines to advise the Philippine military, pressed regional governments (particularly Indonesia) to arrest suspected terrorist individuals and organizations, resumed ties with the Indonesian military, and signed a multilateral counterterrorism

agreement with Southeast Asian countries. Although Southeast Asian governments share the United States' interest in fighting terrorism, some view an increased American military presence in their region with ambivalence because of the political sensitivity of the issue with both Islamic and secular nationalist groups. Indonesia is particularly sensitive in this regard, although Jakarta has significantly increased cooperation since the Bali bombing.

Aside from its oversight responsibilities, Congress is involved in the anti-terrorist campaign through the appropriations process. Congressional options revolve around decisions regarding funding levels and conditionality for U.S. assistance. In the case of the Philippines, Congress will consider Administration requests to provide new military and infrastructure assistance to Manila, which received over \$115 million in aid in FY2002. In its FY2003 budget request, the Bush Administration requested over \$90 million for the Philippines. Regarding Indonesia, in FY2002 the U.S. provided \$12 million in assistance for anti-terrorism police training and made plans to include Indonesian army officers in the Defense Department's new Counter-Terrorism Fellowship Program. In the still pending FY2003 foreign operations appropriations bill, the House and Senate Appropriations Committees reported language relaxing most of the long-standing "Leahy Amendment" restrictions, which currently ban aid to Indonesia's military until it fulfills several conditions relating to accountability for reported human rights abuses. The FY2004 requests for anti-terrorism related assistance to these countries may be even larger than the F 2003 request.

Congress also will oversee the Bush Administration's efforts to strengthen economic ties with several countries in the region. The Administration is close to finalizing a free trade agreement (FTA) with Singapore, has begun negotiating an FTA with Australia, and has announced its desire to open FTA talks with other Southeast Asian nations. (See section entitled "Trade") FTAs must be approved by Congress in order to go into effect. Additionally, Congress will have an opportunity to review Vietnam's normal trade relations (NTR) status, which Hanoi will receive if the President renews Vietnam's waiver from certain trade restrictions.

CRS Products:

CRS Terrorism Briefing Book, *North and Southeast Asia*, by Larry Niksch, Richard Cronin, and Mark Manyin. [<http://www.congress.gov;brbk/html/ebter78.html>]

CRS Issue Brief IB98033, *The Vietnam-U.S. Normalization Process*, by Mark E. Manyin.

CRS Report RL31265, *Abu Sayyaf: Target of Philippine-U.S. Anti-Terrorism Cooperation*, by Larry Niksch.

CRS Report RS20755, *Singapore-U.S. Free Trade Agreement*, by Dick K. Nanto.

CRS Report RS21358, *Australia: Background and U.S. Relations*, by Thomas Lum.

Defense

Introduction

Stephen Daggett, Specialist in National Defense (7-7642)

Defense promises to be a major focus of attention early in the 108th Congress because of the ongoing war against terrorism and a possible war with Iraq. Early in the year, Congress may be asked to consider supplemental appropriations to cover the costs of these conflicts. The Administration may also ask for an unallocated contingency fund to cover unplanned costs of military operations in the future.

A number of other defense policy issues will also be on the agenda. One issue which may carry over from last year is whether to permit concurrent receipt of military retired pay and veterans disability benefits. A compromise reached in the FY2003 defense authorization bill (P.L. 107-314) provides benefits for military retirees with disabilities determined to be caused by combat or combat-related injuries. Veterans service organizations want a much broader benefit, which the White House has opposed in large part on budgetary grounds.

Other issues include defense versus non-defense spending, how to set priorities among major weapons programs, defense transformation, the Department of Defense's role in homeland security, military end-strength, measures to privatize civilian defense jobs, defense acquisition reform, and military base closures, which are planned for 2005. Missile defense is a perennial matter of debate in Congress, and Congress may also debate whether to permit development of new nuclear weapons for missions such as the destruction of deeply buried and hardened targets. Congress will address these and other issues initially in action on the congressional budget resolution and later in action on annual defense authorization and appropriations bills.

Budgetary Issues

Stephen Daggett, Specialist in National Defense (7-7642)

Amy Belasco, Consultant in National Defense (7-7627)

Last year, the Administration requested the largest one-year increase in defense spending since the early years of the Reagan Administration. Congress approved most of the request, with the exception of \$10 billion that the Administration wanted as an unallocated contingency fund for costs of counter-terrorism operations. In the end, the FY2003 budget for national defense is almost \$38 billion above the originally enacted FY2002 level. Congress also approved more than \$16 billion in supplemental appropriations for FY2002. The Administration is projecting continued, though much more modest, increases over the next few years.

The large increase in spending has not been enough to meet all the demands, however. Funding for weapons acquisition has been a particular matter of debate. Last year, the congressional defense committees expressed concern that the Navy requested only five new ships in the FY2003 request, since 8 to 10 new vessels are required on average each year to maintain a fleet of 300 ships. The budget for weapons procurement has been projected to grow from about \$72 billion in FY2003

to almost \$100 billion by FY2007. But with several new weapons expected to be in production by the end of the decade, funding for weapons modernization remains very tight. This has prompted debates within DOD and Congress about priorities among some proposed, high profile service acquisition plans.

A big constraint on funding for weapons acquisition is that other parts of the budget have grown very rapidly. Congress provided a 4.8 percent pay raise for uniformed military personnel in the FY2000 defense budget, and since then it has approved several measures that have driven up personnel costs dramatically. Increases include annual pay raises intended to close the gap between military pay raises over the past 20 years and a measure of pay raises in the civilian sector; pay table reform that provided much larger raises to personnel in the middle ranks to improve retention; increased housing allowances; and substantially expanded retirement benefits, including DOD-guaranteed health care to 65-and-older military retirees.

Meanwhile, funding for operation and maintenance (O&M) – which finances everything from recruitment and training, to weapons maintenance, base operations, medical care for military personnel and their dependents, and environmental cleanup and compliance – has continued to grow at a pace of two to three percent per year above inflation per active duty troop. Taken together, increased personnel and O&M costs take up about two-thirds of the projected increase in defense spending between FY2000 and FY2007.

Several elements add further to the budget debate. Senior Administration officials have placed a very heavy emphasis on defense transformation, which puts a priority on funding for some new initiatives. Some Members of Congress would like to see a substantial increase in active duty end-strength to cope with ongoing high demands on the force, particularly with the global campaign against terrorism continuing. One solution would be to increase the defense budget beyond what the Administration has proposed. But an increase in defense spending would add further to the budget deficit, and there are many competing demands on the federal treasury.

CRS Products:

CRS Report RL31305, *Authorization and Appropriations for FY2003: Defense*, by Stephen Daggett and Amy Belasco.

Defense Transformation

Ronald O'Rourke, Specialist in National Defense (7-7610)

Defense transformation can be defined as large-scale, discontinuous, and possibly disruptive changes in military weapons, concepts of operations, and organization that are prompted by significant changes in technology or the international security environment. By most counts, there have been a few or several such transformations in recent history. The Bush Administration and other supporters believe that technological developments make another such transformation possible and necessary if U.S. military forces are to meet all 21st-

century challenges. The Administration has made transformation a central theme of its defense planning, and has stated that its FY2004 defense budget submission will be the first to fully reflect its defense transformation priorities. The Department of Defense has established an Office of Force Transformation, and the Services have drafted road maps for implementing transformation in coming years.

Congress has an interest in defense transformation because the process can bring about significant changes in defense programs and budgets. Among other things, transformation can lead to reduced spending on current-generation (so-called "legacy") weapons and supporting capabilities and increased spending on next-generation "transformational" systems. There has been considerable debate over which defense programs should be considered transformational (or legacy) and therefore candidates for increased (or reduced) spending.

Congress' role is to assess the need for defense transformation, examine the various ways in which U.S. military forces might be transformed, and act on the Administration's proposals for defense transformation. The primary vehicles for such involvement are the annual defense authorization and defense appropriation bills. Key questions for Congress on defense transformation include: Is defense transformation necessary? If so, is the Administration's plan adequate? What alternatives have been offered? Does the Administration's plan adequately balance transformation against competing priorities, such as near-term readiness and procurement of "legacy" equipment? Is there sufficient consensus regarding the meaning of defense transformation? Is the term transformation being mis-used as an all-purpose tool to justify or condemn certain programs? In what ways might defense transformation make it easier or harder for Congress to conduct oversight of DOD programs?

Congress has several options on defense transformation. It can decide to agree or disagree with its necessity. It can approve, modify, or reject the Administration's funding requests for specific defense programs on the grounds of whether the Administration has correctly assessed their relationship to defense transformation. And it can establish policy goals, terms and conditions for pursuing programs, and reporting requirements that are intended to shape defense transformation and Congress' role in overseeing transformation efforts.

CRS Products:

CRS Report RS20851, *Naval Transformation: Background and Issues for Congress*, by Ronald O'Rourke.

CRS Report RS20859, *Air Force Transformation: Background and Issues for Congress*, by Christopher Bolkcom.

CRS Report RL31425, *Military Transformation: Intelligence, Surveillance and Reconnaissance*, by Judy G. Chizek.

Weapons Acquisitions

Development and procurement of weapons systems for U.S. Armed Forces are important activities that Congress ultimately determines through annual defense authorization and appropriations bills and oversight. As discussed above, DOD is currently emphasizing research and development for “transformational” systems. Research and development and procurement also continue, however, for purposes of replacing and upgrading current “legacy” force equipment and for more rapid introduction of “interim” forces that incorporate some transformational capabilities. The precise categorization of systems is probably less important than that the overall balance of acquisitions provide for a capable force at any time it is required.

Ground Forces. [Edward F. Bruner, Specialist in National Defense (7-2775)]. The centerpiece of Army transformation efforts is the Future Combat Systems (FCS), currently an R&D concept only, with a goal for initial production in FY2008. It will fight within a futuristic network of manned and unmanned vehicles on the ground and in the air. Congress will consider whether almost a billion dollars per year is appropriate for a program that many consider to be a high-risk effort. Only slightly less is now being provided to develop an indirect fires component for the FCS to replace the Crusader howitzer after the Administration canceled it in 2002. Almost a billion dollars annually is also being spent to procure Stryker armored vehicles to equip six Interim Brigade Combat Teams, one forming now at Fort Lewis, Washington. One weapon that will likely attract congressional interest again is the anti-personnel landmine; the Army has reinitiated a quest for alternative systems that might satisfy the Ottawa Treaty banning landmines. The Army and Marine Corps will also have to maintain their legacy forces and upgrade their battlefield awareness capabilities, training resources, and logistics support. Congress will be asked to make judgements about the proper balance of many expenditures needed to guarantee U.S. preparedness for ground combat now and in the future.

Naval Forces. [Ronald O'Rourke, Specialist in National Defense (7-7610)]. Key potential issues for the 108th Congress regarding acquisition of naval weapons include the following: Is the Administration's planned size of the Navy adequate for carrying out the Navy's missions? Does the Administration's FY2004-FY2009 ship and aircraft procurement plan adequately support the planned size of the fleet? What are the merits of funding the acquisition of operational Navy ships through the Navy's research and development appropriation account rather than the Shipbuilding and Conversion, Navy (SCN) appropriation account, where they traditionally have been funded? What are the merits of using split funding, advance appropriations, or other non-traditional funding mechanisms to procure Navy ships? What implications might these mechanisms have for the full funding policy, which Congress imposed on the Department of Defense (DOD) in the 1950s to strengthen DOD budgeting discipline and improve Congress' ability to conduct oversight of DOD weapon acquisition programs? Has the Navy brought under control the problem of cost overruns on ships procured in previous years? What are the merits of the Administration's acquisition plans for aircraft carriers, DD(X) destroyers, and Littoral Combat Ships (LCSs)?

Aviation. [Christopher Bolkcom, Analyst in National Defense (7-2577)]. All four military services are pursuing major tactical aviation modernization

programs that will contend for funding in FY2004. The Air Force's top modernization priority is the F/A-22 *Raptor*, designed to defeat enemy aircraft and, according to some, ground-based air defenses as well. At issue is the aircraft's cost, schedule, the number to be procured, and whether a combination of other manned and unmanned aircraft might more cheaply do the same job. A \$45 billion congressional cost cap on F/A-22 production means that cost and schedule overruns may have to be mitigated by cutting the planned purchase of 295 aircraft.

The Joint Strike Fighter (JSF) is the largest aviation program in terms of overall estimated cost (\$233 billion) and numbers (2,900 aircraft). This multi-role aircraft will be produced in three different, but highly common variants to satisfy Air Force, Marine Corps and Navy needs. Eight allied countries are co-developing the JSF and many more may be interested in purchasing it. At issue is the extent to which the JSF is needed relative to other aircraft such as the F/A-22 and the Navy's F/A-18E/F *Super Hornet*, which flew missions in Iraq in 2002.

Aerial refueling, and long range bomber aircraft are two additional key aviation modernization issues. All tactical aircraft rely on aerial refueling to boost their combat effectiveness, but the Air Force's KC-135 *Stratotanker* fleet is old and in need of replacement. Leasing 100 Boeing 767 aircraft to replace the oldest KC-135s was proposed in the 107th Congress and proved controversial. This issue, and the lack of modernization funding for long range bombers despite their achievements in recent military operations, will likely be debated in the 108th Congress.

The Army's only major aviation program is the RAH-66 *Comanche* armed reconnaissance helicopter, designed to replace two different existing Army helicopter models. In November, 2002, the program was restructured for a sixth time, cutting the number of aircraft in half (from 1,213 to 650 helicopters) and reducing the production phase by \$12 billion. At issue is whether the Army needs an armed reconnaissance helicopter, and if so, the appropriate mix of Comanches, AH-64 Apache attack helicopters, and unmanned aerial vehicles (UAVs) currently under development.

The Marine Corps' top aviation priority is the V-22 *Osprey* tilt-rotor aircraft. Designed to carry more combat troops farther and faster than current helicopters, the Osprey program has experienced difficulties, including several fatal accidents. After a lengthy hiatus to address several engineering problems, the *Osprey* re-entered its test flight program in June 2002. At issue is whether the *Osprey*'s tilt-rotor technology is mature enough to justify continuing the 458 aircraft, \$46 billion program, and whether some combination of helicopters could offer a cheaper and safer alternative.

CRS Products:

CRS Report RS20522, *Army Aviation: the RHA-66 Comanche Helicopter Issue*, by Christopher Bolkcom.

CRS Report RL31673, *F/A-22 Raptor*, by Christopher Bolkcom.

CRS Report RS21059, *Navy DD(X) Future Surface Combatant Program: Background and Issues for Congress*, by Ronald O'Rourke.

CRS Issue Brief IB92115, *Tactical Aircraft Modernization: Issues for Congress*, by Christopher Bolkcom.

Personnel Issues

Military Manpower. [Robert Goldich, Specialist in National Defense (7-7633); Lawrence Kapp, Analyst in National Defense (7-7609)] As the 108th Congress opens, U.S. overseas military commitments have been growing steadily over the past decade. The major forces that the United States has maintained in Europe and East Asia since the end of World War II have been followed by a slow but steady increase in forces deployed to the Persian Gulf region following the Persian Gulf War of 1990-1991, deployments to the Balkans beginning in 1993 (Macedonia), and a rapid dispatch of expeditionary forces to Central Asia and its environs within days of September 11, 2001 for anti-terrorism operations. In addition, the last few months have seen the buildup of the sizable force needed for a potential major theater war with Iraq. All this has happened while U.S. active duty and reserve military manpower strength has declined by over 40% from the Cold War levels of the late 1980s.

To meet the requirements of the anti-terrorism operations, almost 130,000 reservists, some of them facing two years of active duty, have been mobilized, and the services have implemented so-called “stop-loss” programs which forbid certain personnel to leave active duty voluntarily. Some speculate that a war with Iraq could require another 250,000 reservists (Vernon Loeb, “Military Forces Ordered to Gulf,” *Washington Post*, December 28, 2002, A1). The collective effect of all of these overseas deployments has been to increase the frequency with which many military personnel must perform overseas tours, often without families; to increase the frequency with which reservists face a “callup; and to increase the workload of those military personnel stationed in the United States, as they try to fill the gaps left by deployed units and personnel or as they prepare for future deployments. Some particular occupational specialties or types of units – including some found predominantly in the reserves – are much more affected by these conditions than others. At present, the potentially negative impact of these factors on military recruiting and retention appear to have been offset by the surge in patriotic sentiment after the terrorist attacks on the World Trade Center and the Pentagon, the sluggish economy, and the enhanced military pay and benefits enacted by Congress since the late 1990s. However, the increased scale of U.S. military operations worldwide has raised concerns that there is a mismatch between military manpower and the

manpower requirements of current operations, which could create recruiting and retention problems in the not too distant future.

Several proposals have been advanced to ensure that the military services have enough personnel of sufficient quality to meet the requirements of overseas commands. One has been to increase active duty strength across the board. The conference report on the FY2003 National Defense Authorization Act (P.L. 107-314) stated that “active duty end strengths should be increased substantially.” The Administration and DOD have so far been opposed to this, mostly on budgetary grounds. DOD has been pressuring the military services to reduce the number of reservists they have on active duty to save money. DOD does, however, plan to increase the proportion of “high demand” units within the active duty force and decrease their proportion in the reserves. If a major war with Iraq does take place, however, it is difficult to see how the services can avoid a large additional reserve mobilization or a substantially larger active duty force for several years to come in order to garrison and reconstruct a defeated Iraq. Another proposal for reducing manpower pressures is to reduce the number of U.S. personnel participating in peacekeeping and stability operations, most notably in places like Kosovo, Bosnia, and the Sinai.

CRS Products:

CRS Report RL31682, *The Military Draft and a Possible War with Iraq*, by Robert Goldich.

CRS Report RL31334, *Operations Enduring Freedom and Noble Eagle: Questions and Answers about U.S. Military Personnel, Compensation, and Force Structure*, by Lawrence Kapp.

CRS Report RL30802, *Reserve Component Personnel Issues: Questions and Answers*, by Lawrence Kapp.

Concurrent Receipt of Military Retired Pay and Veterans' Administration (VA) Disability Benefits. [Robert Goldich, Specialist in National Defense (7-7633); Amy Belasco, Consultant in National Defense (7-7627)] Passed in the waning days of the 107th Congress, the FY2003 National Defense Authorization Act (P.L. 107-314) provided a new benefit for about 30,000 military retirees whose disabilities are related to action in combat or combat-related situations such as field training or maneuvers. According to the statute, the Department of Defense is required to develop eligibility criteria and procedures for this new benefit by the end of May 2003. This compromise temporarily resolved a contentious dispute between the Administration and Congress about lifting the 111-year old prohibition against “concurrent receipt”—the collecting by military retirees of both military retired pay and VA disability benefits at the same time. (Currently, military retirees may receive all of the tax-exempt VA disability compensation to which they are entitled, but their military retired pay must be reduced, dollar for dollar, by the amount of this VA compensation). Last year, the Administration threatened to veto the House and Senate versions of concurrent receipt because of concerns about the substantial cost and the potential effect on other federal benefit

programs with similar offsets. Faced with continued pressure from veterans service organizations for a broader benefit, the issue may be rejoined in the 108th Congress when the House and Senate Armed Services Committees plan to hold hearings.

CRS Products:

CRS Report RS21327, *Concurrent Receipt of Military Retirement and VA Disability Benefits: Budgetary Issues* by Amy Belasco.

CRS Issue Brief IB85159, *Military Retirement: Major Legislative Issues*, by Robert L. Goldich.

Abortion. [David Burrelli, Specialist in National Defense (7-8033)]. Since the late-1980s, the Administration and Congress have sparred over modifying the provisions and/or laws pertaining to the availability of abortion services via the Department of Defense. Under current law, funds available to DOD may not be used to perform abortions except where the life of the mother would be threatened if the fetus were carried to term. Further, DOD facilities may not be used to provide abortions except for the same “life of the mother clause” or in cases of rape or incest. Legislative attempts to modify, strike, or strengthen this language have become a routine part of the process of considering the National Defense Authorization Act.

CRS Reports:

CRS Report 95-387, *Abortion Services and Military Medical Facilities*, by David Burrelli.

Intelligence

Richard A. Best, Jr., Specialist in National Defense (7-7607)

The transformation of U.S. defense capabilities has important implications for intelligence agencies. The growing dependence of operational forces on precise, real-time locating data increases requirements for information from satellites, manned aircraft, and, especially, unmanned aerial vehicles. There are also additional requirements for communications systems able to rapidly move data from “sensor to shooter” and for processing and analytical capabilities. Resources devoted to providing real-time intelligence to the operating forces will have to be balanced against the continuing need to give intelligence support to national-level policymakers, including those dealing with international terrorism. The recent establishment of the position of Under Secretary of Defense for Intelligence may result in administrative changes within DOD and affect the relationship of defense intelligence agencies to the Director of Central Intelligence. (See also the section below entitled “Department of Defense Role in Homeland Security”).

CRS Reports:

CRS Issue Brief IB10012, *Intelligence Issues for Congress*, by Richard A. Best.

Department of Defense Role in Homeland Security

Steve Bowman, Specialist in National Defense (7-7613)

Robert Goldich, Specialist in National Defense (7-7633)

Richard A. Best, Jr., Specialist in National Defense (7-7607)

For more than a century, the U.S. military has focused on expeditionary warfare overseas. Its participation in domestic operations has been sporadic and generally in response to natural disasters. With the heightened concern about large-scale terrorism have come efforts to involve DOD more closely with federal, state, and local agencies in their homeland security activities. Selected DOD resources are unique in the government, both in their size and capabilities, and can be applied to both deter and respond to terrorist acts. While the DOD leadership is ready and willing to play a supporting role in these efforts, it wishes to maintain overseas military operations as the Department's primary focus, and avoid an inadvertent drain of fiscal, materiel, and personnel resources to the homeland security mission.

In response to the increased focus on homeland security, DOD activated a new combatant command, U.S. Northern Command (NORTHCOM) on October 1, 2002. At the same time, the Administration is setting up the new Department of Homeland Security (DHS). Exactly how DOD and DHS will establish and maintain coordination and cooperation remains to be seen. The legislation creating DHS (P.L. 107-296) is silent on this question, and details on NORTHCOM remain scarce.

The intelligence collection and analysis capabilities within the Department of Defense are a substantial portion of the United States' national intelligence assets. They include the National Security Agency, the National Reconnaissance Office, the National Imagery and Mapping Agency, the Defense Intelligence Agency, and the intelligence and security branches of the individual armed services. Many analysts assert that the means and extent of cooperation/coordination between DOD and DHS will be of great importance to the success of DHS's efforts to provide comprehensive intelligence analysis. The act establishing DHS created a threat assessment office that will depend in large measure upon intelligence provided by DOD agencies, but requirements for intelligence on terrorists will have to be balanced against ongoing needs for intelligence on traditional geopolitical and military issues. Providing intelligence support to DHS may raise questions about the involvement of DOD in domestic law enforcement efforts, given that the statute creating DHS specifically retains the Posse Comitatus Act.

The Department of Defense, with its active duty and reserve forces, and the ability to federalize National Guard units upon presidential direction, has the largest and most diversified personnel assets in the Federal Government. As was demonstrated in the months after the September 2001 terrorist attacks, they can be used in a variety of security roles, though not without detracting from other mission capabilities. The role of the National Guard in homeland security has become a topic of particular discussion. Some believe that the National Guard is tailor-made for coping with local and community contingencies, given its traditional role as the militia of the individual states, its nationwide presence, and its size (nearly half a million people). This has led to calls for greatly expanding its role in homeland security. Others argue that the Guard already has important missions as a federal

military reserve force, which cannot be significantly reduced. They also are concerned that if the Guard were perceived to be an organization with primarily local and domestic missions (rather than having both domestic and foreign warfighting tasks), its ability to recruit and retain sufficient numbers of qualified soldiers could suffer.

Additionally, the Department of Defense remains the greatest federal repository of resources for responding to a chemical, biological, radiological, or nuclear (CBRN) incident. It is anticipated that civilian authorities will eventually develop better capabilities to deal with CBRN incidents; however, for the foreseeable future there will be continued reliance upon DOD assets. Indicative of the competing demands for DOD resources, if the Administration begins military operations against Iraq, active duty DOD CBRN resources may be deployed overseas, and not available for domestic incidents.

Most DOD research & development related to homeland security is in chemical-biological defense. The FY2003 budget request identified approximately \$602 million as DOD funding for homeland security biodefense: bioweapons defense and countermeasures – \$120 million; agent detection, identification, and monitoring – \$300 million; and other unspecified biodefense research – \$182 million. Congressional appropriations supported this request in full.

CRS Products:

CRS Report RL31615, *Homeland Security: The Department of Defense's Role*, by Steve Bowman.

CRS Report RL31564, *Homeland Security and the Reserves: Threat, Mission, and Force Structure Issues*, by Robert Goldich.

CRS Report RS21322, *Homeland Security: Establishment and Implementation of Northern Command*, by Christopher Bolkcom, Lloyd Deserisy, and Lawrence Kapp.

CRS Report RS21230, *Homeland Security: Navy Operations–Background and Issues for Congress*, by Ronald O'Rourke.

CRS Report RS21283, *Homeland Security: Intelligence Support*, by Richard A. Best.

Defense Management and Business Operations Reform

Acquisition Process Reform. [Gary Pagliano, Specialist in National Defense (7-1750)] The Department of Defense (DOD) has initiated major changes in the defense acquisition process in an effort to make it more responsive to rapid changes in threats, technology, warfighting needs, and the costs of alternative weapons. While Congress has not rejected these changes, some key congressional committees have been concerned about the effects of the new procedures in general, and about receiving adequate information to carry out its congressional oversight responsibilities in particular. DOD is implementing an approach for developing new

weapon systems called evolutionary acquisition with spiral development. The core idea of evolutionary acquisition is to develop incremental or “block” versions of a weapon, each with a certain amount of useful military capability, that over time form a series ultimately leading to the desired final capability. Each block includes a phase for conceiving, developing, producing and sustaining a weapon system. Perhaps the most important phase is the second phase (development) which uses spiral development – an iterative process for developing a weapon system’s capabilities within a block by encouraging the developer, tester, and user to interact with one another so as to refine the system’s operational requirements. The result is a process which contains more uncertainty than its predecessor, for example in the initial program description and defined benchmarks of a proposed weapons system. This uncertainty has been reflected in DOD’s lack of clarity in reporting to Congress on these systems in the congressional oversight and appropriations process, which has not changed.

Congress included a number of provisions in the FY2003 Defense Authorization Act (PL107-314) which mandate reports documenting DOD’s use of evolutionary acquisition and spiral development for major acquisition programs. Other provisions required that DOD weapons testing remain independent to ensure accountability in weapons development. While Members of Congress generally support initiatives to create a more efficient acquisition process, many worry that the new procedures take too much discipline and structure out of the traditional acquisition process, and could potentially lead to technical difficulties, and cost overruns. Expensive weapon programs, such as the ballistic missile defense, DD(X) surface combatant, and unmanned air vehicle (UAV) programs, costing billions of dollars, are affected by these DOD initiatives. The 108th Congress will likely face continued challenges in its oversight role of maintaining an acceptable level of transparency over an accelerating and complex DOD acquisition process.

CRS Products:

CRS Report RS21195, *Evolutionary Acquisition and Spiral Development in DOD Programs: Policy Issues for Congress*, by Gary J. Pagliano and Ronald O’Rourke.

CRS Issue Brief IB96022, *Defense Acquisition Reform: Status and Current Issues*, by Valerie Grasso.

Defense Outsourcing Initiatives. [Valerie Grasso, Analyst in National Defense (7-7617)] The 108th Congress is expected to examine a number of defense outsourcing initiatives and may face increased calls for oversight of DOD competitive sourcing policies and initiatives. The Department of Defense has sought to reduce its infrastructure costs to achieve savings that could help finance future weapons and military equipment modernization. It has long relied on competitive sourcing, also called outsourcing, as a tool to do this. OMB Circular A-76 is used for determining whether commercial activities should be performed by the private sector or by federal government employees.

The policy of competitive sourcing is a major component of the Bush Administration's Management Agenda, which has identified competitive sourcing as one of five government-wide initiatives to improve the management and performance of the federal government. The Bush Administration has viewed OMB Circular A-76, and its legislative companion, the Federal Activities and Inventory Reform (FAIR) Act (P.L. 105-270), as a management reform tool to meet the Administration's long-term goal of competing about 425,000 federal jobs, which represents about half of all commercial work performed by the federal government. In March, 2001, OMB directed federal agencies to compete five percent of all federal jobs considered commercial in nature by October, 2002, and ten percent of all federal jobs considered commercial in nature by October, 2003. OMB has not announced a specific competitive sourcing goal for 2004.

To support the Administration's competitive sourcing goals, OMB recently completed its planned overhaul of the federal government's job competition process and released the revised OMB Circular A-76 (FR Doc. 02-29472; published in Federal Register Vol. 67, No. 223, 69769-69774, November 19, 2002). The revision is currently in a "comment evaluation" period; no date for final publication has been set.

Key highlights of the proposed Circular include: 1) a presumption that all activities or functions are commercial in nature, unless justified as inherently governmental; 2) a reduction in the length of time for the completion of competitions (maximum of one year); and 3) a use of cost-technical tradeoffs, or "best value" in the awarding of contracts for defense work (versus the awarding of defense contracts based on "low costs.") The use of best value allows the contracting official to consider technical superiority, quality, innovation, as well as past performance. Implementation of the revised circular would significantly affect defense competitive sourcing policy, as a provision of Title 10, U.S.C. Section 2462 requires that DOD contracts be awarded based on low cost, not best value.

Another major outsourcing initiative, recently announced by the United States Army, will target about two-thirds of the Army civilian workforce. The Secretary of the Army, Thomas White, has announced a new initiative called the "The Third Wave" to outsource approximately 214,000 jobs in the U.S. Army (affecting up to 160,000 civilians and up to 60,000 uniformed military personnel). The Third Wave differs from the first and second waves because it includes base operation activities, including logistics, training, information management, and public works.

CRS Report:

CRS Report RL30392, *Defense Outsourcing: The OMB Circular A-76 Policy*, by Valerie Bailey Grasso.

Base Realignment and Closure (BRAC). [Dave Lockwood, Specialist in National Defense (7-7621)] On November 15, 2002, Secretary of Defense Donald Rumsfeld issued a memorandum to senior staff on DOD's transformation initiative as it applies to a new round of base realignments and closures authorized

by Congress in 2001 (P.L. 107-107, Sections 3001-3007). He stated that “new force structures must be accompanied by a new base structure,” and added that “BRAC 2005 should be the means by which we reconfigure our current infrastructure [bases] into one in which operational capacity maximizes both war fighting capability and efficiency.” He then directed that the process begin immediately; this was, in effect, the start of DOD’s 2005 base closure implementation process.

In his memorandum, the Secretary of Defense stressed the importance of examining opportunities for greater joint activity as a means of achieving a more efficient base structure. It appears that DOD’s network of more than 100 laboratories are prime candidates for such consolidation. The Secretary of Defense also declared that DOD would not make any binding closure or realignment decisions prior to the submission of final recommendations to the new Commission in May 2005. His statement, however, did not exclude the possibility of DOD conducting internal, non-binding deliberations at this time.

The new BRAC law, in large part, replicates the previous 1990 base closing statute (P.L. 101-510). Key milestones for the 2005 round are as follows: (1) December, 2003 – the Secretary of Defense publishes draft selection criteria for closing bases; (2) February, 2004 – the Secretary of Defense publishes final selection criteria and provides Congress with a force structure plan, inventory, capacity analysis, and certification of the need for BRAC closures; (3) March, 2005 – the President, in consultation with congressional leadership, appoints nine members to the new BRAC Commission; (4) May, 2005 – the Secretary of Defense sends to Congress and the BRAC Commission a list of bases recommended for closure or realignment; (5) September, 2005 – the Commission sends to the President a list of its closure and realignment recommendations; and (6) November, 2005 – the President certifies the Commission’s closure/realignment list (if he declines, the whole process is terminated).

The 108th Congress is likely to monitor the ongoing BRAC process. Many Members may be concerned about plans for military installations in their districts and states. One major focus will be efforts by local communities to prevent “base encroachment” – the process whereby bases are progressively hemmed in by urban growth, competition for airspace, protection of endangered species, and other factors that can interfere with military readiness.

CRS Products:

CRS Report RL30051, *Military Base Closures*, by David Lockwood.

Trade

Overview

Raymond J. Ahearn, Specialist in International Trade and Finance (7-7629)

With narrow passage last summer of the Trade Act of 2002 (P.L. 107-210), Congress ended eight years of debate over whether to re-authorize trade promotion authority (TPA), formerly called fast-track authority. This authority allows the President to submit to Congress legislation implementing new trade agreements under special legislative procedures that do not allow for amendment. While there is unlikely to be trade legislation over the next two years that will be of the magnitude or divisiveness of the Trade Act of 2002, particularly given the outcome of the mid-term election, the 108th Congress will have a busy trade agenda. The Bush Administration is expected to ask Congress to approve free trade agreements (FTAs) with Chile and Singapore and perhaps other countries. In considering whether to approve FTAs submitted by the Administration, Congress will evaluate how these agreements affect the often divergent interests of exporters, import-competing industries, consumers, and workers, as well as the progress of two broader trade negotiations that are scheduled to be concluded by 2005 – the Free Trade Area of the Americas (FTAA) and the Doha Development Agenda. As U.S. dependence on trade has grown, controversy concerning the costs and benefits of agreements that accelerate the economic integration of the United States with the rest of the world has continued.

The 108th Congress will also take up a number of other trade issues. Efforts again will be made to re-authorize the Export Administration Act where the main controversy concerns the efficacy of loosening export controls on sensitive goods given today's terrorist threats. In addition, Congress faces the challenge of bringing varied U.S. laws into conformity with World Trade Organization (WTO) rules. Absent compliance, the European Union and other trading partners could impose sanctions on U.S. exports.

Trade Agreements and Negotiations

Introduction. [Raymond J. Ahearn, Specialist in International Trade and Finance (7-7629)] The Bush Administration is negotiating or is proposing to negotiate an unprecedented number of trade agreements. The negotiations include bilateral, regional, and multilateral trade liberalizing agreements. Bilaterally, the United States has completed negotiations on an agreement to establish a free trade area (FTA) with Chile, and has reached an agreement in principle with Singapore for a free trade agreement. The Administration also notified Congress of its intention to begin FTA negotiations with Morocco, Central America (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua), the South African Customs Union (South Africa, Botswana, Lesotho, Namibia, and Swaziland), and Australia. In addition, the United States announced in October 2002 the Enterprise for ASEAN Initiative, a new trade effort with the Association of Southeast Asian Nations. This initiative would offer the prospect of bilateral free trade agreements with ASEAN countries that are committed to economic openness and reforms. Negotiations for two broader

agreements – the Western Hemisphere’s FTAA and the WTO Doha Development Agenda – are ongoing and scheduled to be concluded by January 2005.

The 108th Congress will likely face the question of whether to approve one or more free trade agreements. It is also expected to monitor negotiations on other free trade agreements and on the WTO Doha Development Agenda. The agreements and negotiations raise several important policy questions:

- ! Do the agreements and the ongoing negotiations serve U.S. interests?
- ! Is the Administration fulfilling its obligations under the new Trade Promotion Authority?
- ! Are bilateral and regional free trade agreements and negotiations, on the one hand, and the U.S. multilateral agenda in the Doha Development Agenda, on the other hand, mutually supportive or in conflict?
- ! How are FTA partners chosen and what economic or foreign policy criteria must be met?

In deciding whether to approve bilateral free trade agreements, Members of Congress may weigh potential costs and benefits to their constituents and to the U.S. economy as a whole. Pointed concerns may focus on how specific agreements differentially affect the interests of exporters, import-competing industries, consumers, and workers. For example, the Chile and Singapore agreements are characterized as primarily opening up new markets for U.S. exporters without making any significant reduction in U.S. import protection. Agreements with Morocco and Central America, however, could produce strong competition for the U.S. textile and apparel sector, raising industry resistance. Committees with jurisdiction over trade agreements, particularly the House Ways and Means and Senate Finance Committees, may raise questions regarding the Administration’s FTA strategy as well: How are FTA partners chosen? What economic or strategic criteria must be met? Does the strategy complicate or support efforts to negotiate larger regional and global agreements?

Some critics maintain that bilateral FTAs offer limited economic benefits to the United States. Others worry that they could undermine efforts to conclude broader regional and global trade agreements. While the larger agreements offer greater market opening opportunities for U.S. exporters and service providers, they also would require the United States to cut farm subsidies, and open up still-protected sectors, such as textiles, faster. The American public’s reaction to some free trade agreements, such as NAFTA, has been chilly.

The Bush Administration maintains that FTAs support larger foreign policy goals, such as bolstering democratic regimes. The Administration also views bilateral FTA’s as springboards for concluding more ambitious regional and global pacts. Agreements with Chile and Central America are seen putting pressure on South American countries, particularly Brazil, to negotiate on the Free Trade Area of the Americas. Progress in the FTAA, in turn, is seen pressuring the European Union and others to make progress in the WTO trade negotiations.

Congressional Role in Trade Agreements. [Lenore Sek, Specialist in International Trade and Finance (7-7768)] Through its constitutional responsibility for the conduct of foreign commerce, Congress has an important role in whether and how the United States participates in these and other trade negotiations. It decides whether or not changes under trade agreements, which are negotiated by the executive branch, will be implemented in domestic law.

In 2002, the 107th Congress passed and the President signed the Trade Act of 2002 (P.L. 107-210), which, among other things, granted the President so-called Trade Promotion Authority (TPA), previously known as fast-track authority. TPA allows the President to submit certain trade agreements for a limited time period to Congress for approval under special legislative procedures. These provide that the Congress must accept or reject the total results of a trade agreement under strict timetables and without amendment provided that the Administration follows rules set out by Congress regarding negotiating objectives, consultations, and other matters. By increasing the likelihood that Congress will approve trade agreements as negotiated, TPA bolsters the negotiating leverage and credibility of U.S. trade negotiators.

If Congress determines that the executive branch is not observing the provisions of the trade legislation that it approved last year, it could consider several responses. It could withdraw expedited procedures for implementing legislation for trade agreements reached in the WTO negotiations, thus allowing amendment of the legislation. Members also might insist on more active participation through access to negotiating documents and as observers at negotiating sessions. The executive branch probably would oppose both of these responses.

Implementing legislation for the Chile and Singapore FTA agreements is likely to be submitted to Congress this year. Implementing legislation for other bilateral agreements could be submitted in 2004. Regarding the FTAA and Doha Agenda, implementing legislation is not expected to be submitted, assuming agreements are reached, until the 109th Congress. But the 108th Congress, having an expanded oversight authority as defined in the Trade Act of 2002, will play a crucial role during the last phase of the negotiations both through consultations and oversight. Some Members might participate as observers at negotiating meetings as well.

U.S.-Singapore FTA. [Dick K. Nanto, Specialist in Industry and Trade (7-7754)] The United States and Singapore launched negotiations on a bilateral FTA in December 2000 and a final agreement is expected to be completed in late 2002. The agreement would (with a phase-in period) eliminate tariffs on all goods traded between them, cover trade in services, and protect intellectual property rights. Following the anticipated signing of the agreement in early 2003, the White House is expected to send it to Congress for its concurrence and implementation. The FTA was originally to be patterned after the U.S.-Jordan FTA and contain similar environmental and labor clauses. The Bush Administration reportedly has negotiated language more acceptable to it for environmental and labor provisions. Two contentious issues in the negotiations dealt with textiles (the length of the phase-in period and rules of origin) and capital flows (the ability of Singapore to curb outflows of capital in a financial crisis). The U.S. Trade Representative claims that the FTA has broken new ground in electronic commerce, competition policy, and

government procurement and has achieved major advances in intellectual property protection, environment, labor, transparency, customs cooperation, and transshipments. Singapore is a major trading country; annual exports and imports exceed its GDP. It has a population of 4.4 million.

U.S.-Chile FTA. [J. F. Hornbeck, Specialist in International Trade and Finance (7-7782)] On November 29, 2000, the United States and Chile announced they would negotiate a bilateral free trade agreement (FTA) that would be a comprehensive commitment to freer trade and investment in the region and directly support negotiations of the Free Trade Area of the Americas (FTAA). After passage of Trade Promotion Authority (TPA) legislation in August 2002, the bilateral negotiations proceeded quickly and on December 11, 2002, an agreement was reached. Once implemented, the FTA calls for 87% of all consumer and industrial goods to be traded duty free immediately between the two countries, including textile and apparel products manufactured from U.S. or Chilean inputs. Also, 75% of tariffs on farm goods and Chile's luxury tax on automobiles will be eliminated within the first four years, with tariffs on sensitive goods to be phased out over a period of up to 12 years. Rules governing investment, services trade, dispute resolution and other critical issues to the United States were also liberalized and made more transparent. Under the Trade Act of 2002, President Bush is required to give Congress a 90-day notice of his intention to sign the agreement. His signature makes way for consideration of trade implementing legislation in the 108th Congress. Chile is a relatively small economy and has a population of 15.5 million.

U.S.-Moroccan FTA.[Raymond J. Ahearn, Specialist in International Trade and Finance (7-7629)] The Bush Administration formally notified Congress of its intent to negotiate an FTA with Morocco on October 1, 2002. The notification letter states that the proposed agreement would "support this Administration's commitment to promote more tolerant, open, and prosperous Muslim societies." While the proposal has a strong national security and foreign policy rationale, the FTA would also seek to support U.S. economic objectives. These include allowing U.S. agricultural products to compete more effectively against European agricultural products, which currently benefit from preferential access. From Morocco's perspective, the FTA could lead to an increase in U.S. foreign direct investment and provide preferences for textile and apparel exports to the United States. Formal negotiations are scheduled to commence in late January and to conclude in 2003. Morocco is a small economy and has a population of just over 31 million.

U.S.-Australian FTA. [William H. Cooper, Specialist International Trade and Finance (7-7749)] On November 13, 2002, the Bush Administration notified the Congress that it would begin negotiations with Australia on an FTA 90 days from that date. Australian officials lobbied U.S. policymakers for several years for consideration as an FTA partner, and Prime Minister John Howard raised the issue in meetings with President Bush. The Bush Administration expressed interest but, until recently, had not committed to begin negotiations. Underlying the hesitation were U.S. concerns about Australian sanitary and phytosanitary controls that U.S. farmers claim act as barriers to U.S. agricultural exports to Australia. While the U.S. business community strongly supports the negotiations, the American agricultural community remains skeptical. A group that includes the National Cattlemen's Association expressed "strong reservations" about the negotiations and a second

group led by the American Farm Bureau Federation said, "We accept the initiation of FTA negotiations with Australia, but that does not necessarily imply willingness to accept the final agreement." (*Congressional Daily*. November 13, 2002). Australia is a medium size economy which exports wheat, wool, and meat among other items. Its population is 19.5 million.

U.S.-Central American FTA. [J. F. Hornbeck, Specialist in International Trade and Finance (7-7782)] On January 16, 2002, President Bush announced that the United States would explore a free trade agreement with the five nations composing the Central American Common Market (CACM) – Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. The first round of negotiations is scheduled to begin January 21, 2003 in San Jose, Costa Rica and both sides have expressed optimism that an agreement can be concluded by year end. The Central America Free Trade Agreement, referred to as CAFTA, presents a new challenge in bilateral negotiations because the five republics must first negotiate among themselves in order to bring a single position on any given issue to the negotiating table with the United States. Although the Central American countries currently qualify as beneficiary countries under the Caribbean Basin Initiative, an FTA with the United States would potentially allow for further reduction in trade barriers, make permanent benefits provisionally guaranteed in legislation requiring periodic re-authorization, and provide an environment even more conducive for U.S. foreign investment. For the United States, proponents of the agreement see it supporting U.S. exports and providing less expensive imports, advancing the movement toward a Free Trade Area of the Americas (FTAA), and solidifying deeper regional political and economic reforms that strengthen democracy and promote stability. Critics have noted that Central America represents only 1% of U.S. trade and so an FTA will have only a small, if noticeable, affect on the U.S. economy overall, with the possible exception of a few import competing industries that may feel the effects slightly more.

U.S.-South African Union FTA. [Ian F. Fergusson, Analyst in International Trade and Finance (7-4997)] On November 4, 2002, the United States Trade Representative (USTR) notified Congress that talks to negotiate a free-trade agreement (FTA) with the Southern African Customs Union (SACU) would begin in February 2003. SACU is a customs union composed of South Africa, Botswana, Lesotho, Namibia, and Swaziland. The original SACU agreement dates from 1910 and was revised in 1969. A new agreement to more fully integrate the smaller states into decisionmaking for the area, which was previously dominated by South Africa, was signed on October 21, 2002. The agreement is characterized by free movement of goods within SACU; a common external tariff; and the common revenue pool which is apportioned among the member states. A large degree of economic integration exists among the SACU states because of the agreement, perhaps accounting for the U.S. decision to negotiate an FTA with SACU, rather than just South Africa. However, South Africa is the dominant economy of the region, accounting for 87% of the population, and 92 % of the GDP of the customs area. U.S. exports to SACU totaled \$3.1 billion in 2001, led by aircraft, vehicles, construction and agricultural equipment, and computers. U.S. imports from SACU totaled \$4.8 billion, composed of minerals such as platinum, diamonds, and titanium, textiles and apparel, vehicles, and automotive parts. Potential obstacles to an FTA with SACU include competition issues related to the South African telecommunications industry

and government procurement, U.S. textile tariffs and quotas, and intellectual property rights especially with regards to access to HIV/AIDS medicines. South Africa currently has a free trade agreement with the European Union that, while not including the other members of SACU, has been characterized as putting U.S. firms at a competitive disadvantage compared to their European counterparts.

Free Trade Area of the Americas. [J.F. Hornbeck, Specialist in International Trade and Finance (7-7782)] The proposed Free Trade Area of the Americas (FTAA) is a regional trade concept that would include 34 nations of the Western Hemisphere intent on promoting economic integration by creating a comprehensive (presumably WTO-plus) framework for reducing tariff and nontariff barriers to trade and investment. Formal negotiations commenced in 1998 and the first draft of the agreement was adopted at the Third Summit of the Americas in Quebec, Canada in April 2001. The second draft text was accepted on November 1, 2002 at the seventh trade ministerial in Quito, Ecuador. The negotiating schedule calls for a final agreement to be adopted by January 2005, with its entry into force to occur no later than the end of the same year.

Five major achievements stand out from the Quito trade ministerial: 1) Brazil and the United States became co-chairs of the Trade Negotiations Committee (TNC), which will guide the final phase of the overall negotiation process; 2) a new Hemisphere Cooperation Program (HCP) was established to develop resources to help small countries “strengthen their capacity to implement and participate fully in the FTAA;” 3) the second draft of the FTAA agreement was released; 4) a time line was established for the critical market access negotiations; and 5) the final rotation of chairs for the various negotiating groups was completed. The TNC will meet in April 2003 in Trinidad and Tobago and the eighth (next) FTAA ministerial meeting will convene in Miami, Florida in the fourth quarter of 2003; the ninth is scheduled for the following year in Brazil.

Negotiations on agriculture are a critical and sensitive topic for most negotiating members. As was recognized at Quito, the negotiations will have to be done with an eye on parallel discussions being undertaken by the WTO. The WTO deadline for agriculture negotiations is also set for January 2005. Much attention is also focused on how Brazil and the United States will undertake their duties as co-Chairs of the TNC, both as leaders of the negotiating process, and as the two largest economies with significant differences of opinion on many issues, including difficult topics such as treatment of steel and agricultural products.

Additional complications include challenges to economic and social progress in Latin America, such as the financial crisis in Argentina, the recent large IMF package for Brazil, and uncertain political conditions in Venezuela and Colombia. Setbacks in these areas raise the potential for eroding stability and the spirit of cooperation that launched the FTAA negotiations.

Multilateral Negotiations: The WTO Doha Development Agenda. [Lenore Sek, Specialist in International Trade and Finance (7-7768)] From November 9-14, 2001, trade ministers from 142 member countries of the World Trade Organization (WTO) met in Doha, Qatar to decide whether or not to launch a new round of multilateral trade negotiations. At the end of that meeting, they

agreed on a work program for a new round, called the Doha Development Agenda. Under the work program, negotiators will continue ongoing agriculture and services trade talks, as well as address industrial tariffs, intellectual property issues, topics of interest to developing countries, and other areas.

At Doha, trade ministers agreed that the negotiations would be carried out under the Trade Negotiations Committee (TNC), which would consist of all WTO members and countries negotiating membership. The TNC has met four times: January, April, July, and October 2002. Countries have agreed on a negotiating structure and chairpersons. They face a deadline of May 31, 2003 for agreement on formulas and other modalities in the agriculture negotiations and for initial offers of market access for the services negotiations. They also face a May 2003 deadline for a review of the Dispute Settlement Understanding. The trade ministers agreed at Doha that they would take stock and make several interim decisions at the next ministerial meeting, which is scheduled for September 10-14, 2003 in Cancun, Mexico. They set a deadline of January 1, 2005, for a final comprehensive trade agreement.

The potential benefit of successful multilateral negotiations is projected to be great. A University of Michigan study found that a one-third reduction of current barriers to trade would result in over \$600 billion in worldwide economic benefits. While the possible gains in multilateral negotiations are such a great magnitude, however, reaching agreement among so many countries is highly difficult. Therefore, policymakers are also seeking more limited economic gains through bilateral or regional agreements, which are often easier to negotiate.

CRS Products:

CRS Report RS20755, *Singapore-U.S. Free Trade Agreement*, by Dick K. Nanto.

CRS Report RL31144, *A U.S.-Chile Free Trade Agreement: Economic and Trade Policy Issues*, by J.F. Hornbeck.

CRS Report RL31356, *Free Trade Agreements: Impact on U.S. Trade and Implications for U.S. Trade Policy*, by William H. Cooper.

CRS Report RS20864, *A Free Trade Area of the Americas: Status of Negotiations and Major Policy Issues*, by J. F. Hornbeck.

CRS Issue Brief IB95017, *Trade and the Americas*, by Raymond J. Ahearn.

CRS Report RL31206, *The WTO Doha Ministerial: Results and Agenda for a New Round of Negotiations*, coordinated by William H. Cooper.

CRS Trade Briefing Book, *The World Trade Organization: the Doha Ministerial*, by Lenore Sek. [<http://www.congress.gov;brbk/html/ebtra41.html>]

CRS Report RS21085, *Agriculture in WTO Negotiations*, by Charles E. Hanrahan.

Export Administration Act

Ian F. Fergusson, Analyst in International Trade and Finance (7-4997)

In the 108th Congress, there will be continued efforts to rewrite and reauthorize the Export Administration Act of 1979 (EAA). The EAA provides the statutory authority for export controls on sensitive dual-use goods and technologies, items that have both civilian and military applications including those items that can contribute to the proliferation of nuclear, biological and chemical weaponry.

Efforts to renew the Act have been complicated by continued tension between national security and commercial concerns. Some observers contend that current export controls hurt U.S. business by subjecting technology exports to what they consider a cumbersome and ineffective licensing process that costs sales and loses markets to overseas competitors. Others maintain that current controls are not strong enough to prevent the spread of dual-use technologies to adversaries or potential proliferators, and that EAA legislation, as introduced in the 107th Congress, would further weaken this system. Congressional interest in EAA reform has been heightened by questions about the efficacy of export controls in the fight against terrorism and by revelations about the unauthorized transfer of sensitive items to nations restricted by current regulations, including China.

The EAA, which originally expired in 1989, periodically has been reauthorized for short periods of time, with the last incremental extension expiring in August 2001. At other times, the export licensing system created under the authority of EAA has been continued by the invocation of authorities under the International Emergency Economic Powers Act (IEEPA). In the 107th Congress, two competing versions of EAA emerged. The Senate version (S.149) was passed by the Senate on September 6, 2001. Both the House International Relations Committee and the House Armed Services Committee substantially amended the House version (H.R. 2581) which, as introduced, was substantially similar to S. 149. To different degrees, the House versions conferred additional authority on the Department of Defense to block license applications and decontrol decisions, tightened the criteria for decontrol of certain items, and mandated the denial of licenses for certain exports. The Administration supported S.149 and opposed the competing House versions. Negotiations between the Administration, Senate, and House participants to reconcile differences between the versions of the legislation continued for the remainder of the session without success. Because the substance of this debate has not been predominantly partisan in nature, the change in party composition of the 108th Congress is not expected to alter the dynamics of the debate. The sponsor of the Senate version of EAA in the 107th Congress, Senator Michael Enzi, has indicated that he will reintroduce a version of EAA in the 108th Congress, and other Members may also offer export control legislation. In addition to the reauthorization legislation, the 108th Congress may tackle such issues as the nature and scope of export controls on high performance computers, whether commercial communications satellites will remain under the licensing authority of the Department of State or be transferred to the Department of Commerce, and the regulation of “deemed exports” – the release of sensitive technology to foreign nationals within the United States.

CRS Products:

CRS Report RL30689, *The Export Administration Act: Prospects and Controversy*, by Ian F. Fergusson.

CRS Report RL30169, *Export Administration Act of 1979 Reauthorization*, coordinated by Ian F. Fergusson.

CRS Report RL31175, *High Performance Computers and Export Control Policy: Issues for Congress*, by Glenn McLoughlin and Ian F. Fergusson.

United States and the World Trade Organization (WTO): Compliance Issues

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The 108th Congress inherits several disputes where the WTO has ruled that U.S. laws violate world trade obligations. Barring abolition or significant modification of the statutes in question, the European Union and other trading partners could decide to retaliate on U.S. exports this year or next.

The largest threat involves a WTO ruling that a U.S. export tax benefit, the Extraterritorial Income Exclusion (ETI), and its predecessor – the Foreign Sales Corporation (FSC) – is an illegal subsidy. Pursuant to the case and the inability of the United States to repeal the subsidy or find a WTO compatible substitute, the WTO in August 2002 granted the EU the right to impose 100% tariffs on \$4 billion of U.S. exports to Europe. Some fear that a decision by the EU to retaliate on such a large volume of trade – the largest sanction in the history of the WTO – could ignite a transatlantic trade war and deal a devastating blow to the ongoing round of global trade negotiations.

The threat of foreign retaliation against U.S. exports is also a possibility in several other cases in which the United States has been on the losing side of WTO dispute panel rulings. These include cases involving the Antidumping Act of 1916, which provides a private right of action and criminal penalties against dumping, a copyright dispute where the U.S. was found to violate royalty rights of EU musicians, and a trademark dispute involving a Cuban rum.

Critics, including a number of Members of Congress, have charged that some of these WTO dispute settlement rulings unfairly infringe on U.S. sovereignty by undermining domestic trade remedy laws. Bush Administration trade officials have expressed concerns that some panel rulings “legislate new obligations and go too far in determining how [WTO] members should comply with adverse panel rulings.” In response, some Members reportedly are considering introducing legislation to establish a commission of former judges to review WTO decisions with a view to determining whether the WTO is exceeding its authority. Others may support changes in the dispute settlement process that could be proposed and negotiated in the Doha Development Agenda.

Supporters of the WTO dispute resolution process argue that the United States was the chief proponent of creating a stronger and more binding dispute settlement process. They also claim that the system works in keeping markets open to U.S. exports, and that U.S. complaints only arise when the system chips away at some of the vestiges of U.S. protection. Were the United States or other leading WTO members to ignore WTO findings, they argue that the dispute resolution process could be severely weakened.

Legislation was introduced in the 107th Congress to settle a number of these disputes, but none of the bills was brought to the floor. On the ETI dispute, House Ways and Means Committee Chairman Bill Thomas introduced legislation (H.R. 5095) that would repeal the ETI and replace it with a series of tax benefits that would primarily help companies with overseas operations. Many companies that produce and export primarily from the United States are not in favor of this approach. By contrast, Senate Finance Committee leaders are promoting a “negotiated solution” to the dispute, perhaps within the context of the Doha Round of negotiations. EU trade officials have repeatedly stated that they only want the United States to amend or repeal the ETI in a WTO-consistent manner.

Three different bills were introduced to repeal the 1916 Antidumping statute, but were not acted on. While two of the bills would have terminated pending litigation, the third would have grandfathered existing court cases, all of which involve EU or Japanese companies. The United States was to have originally complied by mid-2001, but received extensions from the EU and Japan, the most recent lasting until the adjournment of the past session of Congress. The EU recently warned that it would resume retaliation procedures in the WTO if the U.S. failed to repeal the law in a way that would end all existing court cases.

In the EU’s successful challenge of U.S. music licensing legislation, the United States agreed to pay arbitrated compensation of \$3.3 million to the EU, though the EU still seeks a change in U.S. law. Congress authorized \$50 million in the Trade Act of 2002 for a fund for the payment of settlements in WTO disputes, but has not appropriated the funds.

Another WTO panel found earlier this year that the United States violated its WTO obligations in enacting the Continued Dumping and Subsidy Offset Act of 2000 (also known as the Byrd Amendment), which requires the distribution of antidumping and countervailing duties to petitioners and interested parties in underlying cases, and recommended that the United States repeal the statute. While the United States has appealed the panel’s findings, a WTO appellate decision upholding the panel may raise legislative issues for the United States. Were the EU to prevail in the dispute, the United States would likely need to indicate its compliance plans to the WTO in the first half of 2003.

The 108th Congress may reconsider legislation to bring the United States into compliance with recommendations and rulings formulated by the Dispute Settlement Body (DSB) of the WTO. Consideration is likely to be given to the ETI export subsidy case, which is the longest standing example of non-compliance.

CRS Products:

CRS Trade Briefing Book, *WTO Dispute Settlement: Procedures and Pending U.S. Cases*, by Jeanne J. Grimmett.
[<http://www.congress.gov/brbk/html/ebtra56.html>]

CRS Report RL31660, *A History of the Extraterritorial Income (ETI) and Foreign Sales Corporation (FSC) Export Tax-Benefit Controversy*, by David L. Brumbaugh.

CRS Report RL31474, *Steel and the WTO: Summary and Timelines of Pending Proceedings Involving the United States*, by Jeanne J. Grimmett and Stephen Cooney.